



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2021

CORAM :

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THE HONOURABLE **Mr. JUSTICE G.ILANGOVA**

Crl.O.P.(MD)No.13488 of 2021
and Crl.M.P(MD)No.7008 of 2021

V.Karthikraja

... Petitioner/Sole Accused

Vs.

1. The State through the
Inspector of Police,
Keelavalavu Police Station,
Madurai District.
(In Crime No.233 of 2020)

...1st Respondent/Complainant

2. Kamalamuthu,
Sub-Inspector of Police,
Keelavalavu Police Station,
Madurai District.

... 2nd Respondent/Defacto
complainant

Prayer : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the F.I.R. in Crime No.233 of 2020 dated 22.04.2020 on the file of the 1st Respondent and quash the same.

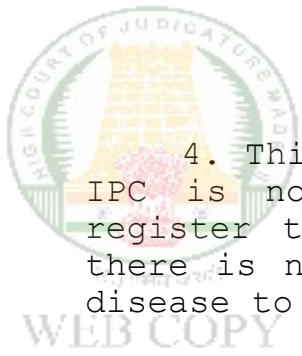
For Petitioner	:	Mr.S.J.Chakkaravarthy
For R1	:	Mr.K.Sanjai Gandhi
		Government Advocate (Crl. Side)

ORDER

This petition is filed seeking a direction to quash the First Information Report in Crime No.233 of 2020 dated 22.04.2020 on the file of the 1st Respondent.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the first respondent.

3. The case of the petitioner is that on 22.04.2020, when Section 144 Cr.P.C ban was in force, the petitioner went outside without proper reason. Hence, a case in Crime No.233 of 2020 for the offences under Sections 188 and 269 IPC has been registered on the same day. The present petition is filed to quash the First Information Report in Crime No.233 of 2020.



4. This petition is filed mainly on the ground that Section 188 IPC is non-cognizable offence and the police has no right to register the case and investigate. Section 269 IPC is concerned, there is no intention on the part of the petitioner to spread the disease to another and simply he was walking in that area.

5. Heard both sides.

6. In the judgment reported in **2018(2) L.W (Crl.)606 (In Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another)** it has been held that the police has no right to file a case under Section 188 IPC and to investigate the same without getting proper permission from the concerned jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the first respondent has no right to register the case and to investigate the matter.

7.A detailed guideline has been issued by this Court in the judgment cited supra. On this aspect, Section 188 IPC will not stand against the petitioner. The offence under Section 269 IPC is concerned, as per the contents of the First Information Report, it is seen that the petitioner was simply riding in his two wheeler. It is a trivial matter in which no offence of grievous nature is involved. Even though Section 144 Cr.P.C order was in force, during the relevant time the respondent police ought to have warned the petitioner to go in-door, instead of that, they filed a case. It is also not the case of the first respondent that at the time of the incident, the petitioner was affected by Covid-19. So the contention that riding in a two wheeler during the pandemic period will spread the disease is without any basis.

8.Moreover, it is seen that the petitioner has completed his graduation and he is trying to go abroad for his livelihood. The petitioner has applied for passport and the passport authority has issued a Clarification Notice on 10.08.2021 to the petitioner with regard to the pendency of the case in Crime No.233 of 2020 dated 22.04.2020.

9. Considering the nature of allegations and the offences involved in this case, I am of the considered view that riding in the two wheeler without any reason should not be a reason for spoiling the future of the petitioner. Unintended casual act should not take away the future of the petitioner. More over, it is also brought to the notice of this Court that the Government is also going to drop all these cases, which have been registered during the pandemic period against the public. Taking all these aspects into account, I am of the considered view that the First Information



Report in in Crime No.233 of 2020 dated 22.04.2020 on the file of the respondent is liable to be quashed and the same is quashed.

10. In fine, this petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector of Police,
Keelavalavu Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.S.J.CHAKKKARAVARTHY, Advocate (SR-29149[F] dated 15/09/2021)

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RD(27.09.2021) 3P 4C