



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

CrI.O.P. (MD)No.13652 of 2021

Sarath @ Sarathkumar

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Keelavalavu Police Station,
Madurai District.

... Respondent No.1/Complainant

2.Senthammarai Kannan,
Special Sub Inspector of Police,
Keelavalavu Police Station,
Madurai District.

... Respondent No.2/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the FIR in Crime No.1466 of 2020 dated 16.10.2020 on the file of the first respondent police and quash the same.

For Petitioner : Mr.S.J.Chakkaravarthy

For Respondents : Mr.K.Sanjay Gandhi
Government Advocate

ORDER

This petition has been filed to quash the impugned First Information Report registered in Crime No.1466 of 2020, on the file of the first respondent

2.The complaint against this petitioner is that on 16.10.2020, the accused person was wandering without wearing Mask during the pandemic situation, violating the order passed by the Government under Section 144 of Cr.P.C. On the basis of the complaint given by the second respondent, a case in Crime No.1446 of 2020, for the offences punishable under Sections 188 of IPC, r/w Section 25(2) (a), 26(2) of Disaster Management Act 2005.

3.Seeking quashment of the First Information Report, this petition came to be filed mainly on the ground that the offence under Section 188 IPC is non-cognizable offence, for which, the



first respondent police has no right to file First Information Report and investigate the matter. In respect of other offences, none of the allegations mentioned in the First Information Report attract any of the ingredients of the offence against the petitioner.

WEB COPY 4. Heard both sides.

5. The petitioner did not give any reason or explanation for coming out of the house, defying the order passed by the Government under Section 144 of Cr.P.C. No doubt, defying the Government order and roaming in and around public place during the pandemic situation is mistake on the part of the petitioner. But, however, it is seen that it was only casual outing without any intention of spreading disease. It is also not the case of the prosecution that the petitioner was affected with Covid-19 at the time of alleged occurrence. Absence of any such material to show that the petitioner was affected by Covid 19 at the time of alleged occurrence, offence under Sections 269 and 270 IPC are also not attracted. As I mentioned earlier, it was the casual outing made by the petitioner without minding the consequences. Instead of filing First Information Report, the first respondent ought to have warned the petitioner to go home and remain in home. Without giving such warning, it appears that the case has been registered.

6. The learned counsel for the petitioner would submit that now the petitioner has a proposal to go abroad seeking job. Because of the pendency of the criminal case, he is not in a position to move abroad. The non-intentional outing of the petitioner should not be taken seriously. It is also to be noted that the Government has also proposed to drop all such cases, which have been registered against the public during pandemic period.

7. Taking totality of the circumstance, the First Information Report in Crime No.1466 of 2020, on the file of the first respondent police is required to be quashed and accordingly, the same is quashed and the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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



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-29405[F] dated
17/09/2021)

CrI.O.P. (MD) No.13652 of 2021
16.09.2021

RK (27.09.2021) 3P 4C