



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2021

CORAM:

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

Crl.O.P. (MD)No.15684 of 2021

Jeganathan

... Petitioner/Sole Accused

Vs.

1.The Sub Inspector of Police,
Melavalavu Police Station,
Madurai District.

...Respondent/Defacto
Complainant

2.Dayalan
Special Sub Inspector of Police,
Melavalavu Police Station,
Madurai District.

...Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in Crime No.973 of 2020 for the offence under Section 188 IPC, on the file of Melavalavu Police Station and quash the same.

For Petitioner : Mr.C.Bhagavath Singh
For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

This petition has been filed to quash the impugned First Information Report registered in Crime No.973 of 2020 on the file of the respondent police.

2.The complaint against this petitioner is that on 20.08.2020 at about 2.00 pm, when the petitioner went to his relative house at Melavalavu without wearing mask, the respondent police intercepted the petitioner, stating that the petitioner violated the order passed by the Government under Section 144 of Cr.P.C. Hence, a case in Crime No.973 of 2020, for the offence punishable under Section 188 IPC and Section 25(2) (a) (26) (2) Disaster Management Act 2005 has been registered.

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 respondent police has no right to file First Information Report and investigate the matter.



4. Heard both sides.

5. It is seen that this petitioner found in public place, when COVID-19 protocol was in force. At that time, the respondent police intercepted the petitioner. 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, especially without wearing mask 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. As I mentioned earlier, it was the casual outing made by the petitioner without minding the consequences. Instead of filing First Information Report, the second 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 due to pendency of the criminal case, he could not even get passport. 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.973 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 (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

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 Sub Inspector of Police,
Melavalavu Police Station,
Madurai District.



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2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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