



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.10.2021**

CORAM:

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

Crl.O.P. (MD)No.15404 of 2021

and

Crl.M.P. (MD) .No.8271 of2021

WEB COPY

R.Rakesh Babu

... Petitioner

Vs.

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

2.S.Karthick
The Sub Inspector of Police,
Silaiman Police Station,
Madurai District.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Crime No.1495 of 2020 on the file of the first Respondent Police and to quash the same.

For Petitioner	: Mr.R.M.Arun Swaminathan
For Respondents	: Mr.R.M.S.Sethuraman Additional Public Prosecutor

O R D E R

This petition is filed seeking quashment of Crime No.1495 of 2020 on the file of the first respondent.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

3.The case of the petitioner is that on 20.10.2020 at about 16.30 hours, the petitioner herein was roaming in the road without wearing mask at the time of prohibition due to COVID-19 pandemic. Hence, a case in Crime No.1495 of 2020 for the offences punishable under Section 188 IPC r/w. 25(2) (A), 26(2) of Disaster Management Act, has been registered. The present petition is filed to quash the First Information Report in Crime No.1495 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.



5. Heard both sides.

6. In the judgment reported in **2018(2) L.W (Cr1.) 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 respondent has no right to register the case and to investigate the matter. 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.

7. Considering the nature of allegations and the offences involved in this case, I am of the considered view that roaming in the road without any reason should not be a reason for spoiling the future of the petitioner. Moreover, 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 Crime No.1495 of 2020 on the file of the respondent is liable to be quashed and accordingly, the same is quashed.

8. In the result, this petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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,
Silaiman Police Station,
Madurai District.



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

+1 CC to M/s.G.AZHAGU PRASATH, Advocate (SR-31904[F] dated
11/10/2021)

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KMV (CO)

KB/JGB(29.10.2021) 3P 4C