



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 14.07.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD) No.15550 of 2020

and

Crl.MP(MD)No.7602 of 2020

WEB COPY

C.Selvakumar

... Petitioner/Sole Accused

Vs.

1.State represented by
The Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.
(Criem No.128/2020)

2.Munish,
Sub Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.

... Respondents/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.128 of 2020 on the file of the Inspector of Police, Devarkulam Police Station, Tirunelveli and quash the same.

For Petitioner : Mr.K.N.Guru
For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor.

ORDER

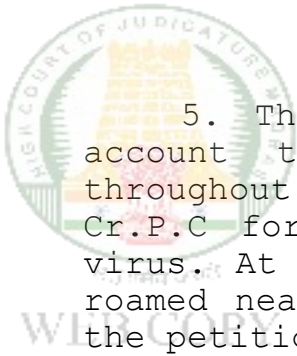
This petition is filed to quash the Crime No.128 of 2020 on the file of the Inspector of Police, Devarkulam Police Station, Tirunelveli.

2. The case of the prosecution is that on 25.04.2020, the petitioner violated 144 curfew imposed by the government by roaming near Deverkulam Bazaar, Tirunelveli District, without proper reason. Since curfew was in force, a case has been registered in Cri.No.128 of 2020 for the offence punishable under Section 269 of IPC.

3. Seeking quashment of the First Information Report, this petition is filed, mainly on the ground that the allegations mentioned in the First Information Report, will not attract the offences against this petitioner.

4. Heard both sides.

<https://hcservices.ecourts.gov.in/hcservices/>



5. The common and judicial notice has also been taken into account that due to the pandemic situation, on 24.03.2020, throughout the Tamilnadu, curfew has been imposed, under Section 144 Cr.P.C for the purpose of controlling the spread of Covid - 19 virus. At that time, this petitioner was found defying the curfew roamed near Deverkulam Bazzar, Tirunelveli District. No doubt that the petitioner was defying the curfew imposed by the government.

6. Reading of the First Information Report shows that the petitioner was roaming around the place of occurrence, without proper reason and he did not obey the repeated instructions, given by the patrol police. On that ground, he was arrested immediately. It is seen that during the relevant period, Covid - 19 protocol was in force and the Government has also ordered curfew under Section 144 IPC. Defying the same, the petitioner appears to have roamed in the area. But, however, it is seen that he has not affected by Covid -19, at the time of occurrence. So, the allegation that with intention to spread the disease he was found roaming, without any basis.

7. Moreover, it is seen that he is only aged about 22 years at the time of occurrence. So, probably it can be taken only casual outing. So, the casual outing, cannot be construed as offence. It is a trivial offence. By which, no damage was done. The Police Officer instead of registering a case, arrest the petitioner very well and would have warned him go home. Without doing this, they registered a case against him.

8. Moreover, it can also be taken judicial notice that the case filed during the pandemic period against public is going to be dropped by the government. So, considering this fact also, nothing is going to be served by prosecuting the case in Crime No.128 of 2020, against the petitioner.

9. Taking totality of the circumstance, the FIR in Crime No.128 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. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

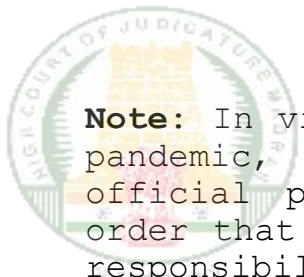
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Sub Assistant Registrar(CS)

dss

<https://hcservices.ecourts.gov.in/hcservices/>



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.

WEB COPY

To

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

Crl.O.P.(MD) No.15550 of 2020
and
Crl.MP(MD)No.7602 of 2020
14.07.2021

CM(CO)
KB(28.07.2021) 3P 3C