



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 02.12.2021

CORAM :

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

Crl.O.P (MD) No.18987 of 2021  
and  
Crl.M.P. (MD) No.10537 of 2021

S.Masanam ... Petitioner/Accused No.1

Vs.

1. State represented by  
The Sub Inspector of Police,  
Ambasamuthiram Police Station,  
Tirunelveli District.  
(Crime No.346 of 2020) ... Respondent No.1/Complainant
2. Praveena,  
The Sub Inspector of Police,  
Ambasamuthiram Police Station,  
Tirunelveli District. ... Respondent No.2/Defacto  
Complainant

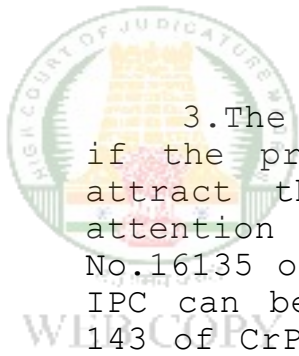
**Prayer:** This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.346 of 2020 dated 28.09.2020 on the file of the 1<sup>st</sup> respondent police for alleged offence under Section 291 of IPC and quash the same as illegal as far as the petitioner is concerned.

For Petitioner : Mr.T.Thirumurugan  
For Respondents : Mr.T.Senthil Kumar,  
Addl. Public Prosecutor.

**ORDER**

This criminal original petition has been filed to quash the impugned FIR in Crime No.346 of 2020 registered on the file of Ambasamuthiram Police Station for the offence under Section 291 of IPC.

2.The case of the prosecution is that when the second respondent was on her routine patrol rounds, she saw that the petitioner herein along with another person was causing public nuisance and that they continued to indulge in the act by ignoring the warning given by the police to leave the place.



3.The learned counsel for the petitioner points out that even if the prosecution case is taken as true, it would still not attract the offence under Section 291 of IPC. He drew my attention to the order dated 09.11.2021 made in Crl.O.P.(MD) No.16135 of 2021. I had held in the said case that Section 291 of IPC can be attracted only for breach of the order under Section 143 of CrPC. I had also held that accused must have committed an act of public nuisance and before its repetition, a formal proceeding from the competent authority must have been issued restraining him from doing so. Mere statement by the informant police that the accused did not pay heed to their instruction will not constitute an offence under Section 291 of IPC. The case on hand is squarely covered by the aforesaid decision. The very registration of the impugned FIR is illegal. It stands quashed. The criminal original petition is allowed. The benefit of this order will also enure in favour of the non-petitioning accused. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ias

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

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-37123[F] dated 02/12/2021

**Crl.O.P(MD)No.18987 of 2021**

**02.12.2021**