



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2021

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.19147 of 2021
and
Crl.M.P.(MD)No.10659 of 2021

M.Solairajan ... Petitioner/ Accused No.1
Vs.

1.The State rep by
The Inspector of Police,
Kulathur Police Station,
Thoothukudi District. ... Respondent/ Complainant

2.Gangainatha Pandiyan ... Respondent/
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.128 of 2021 on the file of the 1st respondent police and quash the same insofar as petitioner/Accused No.1 is concerned.

For Petitioner : Mr.C.Gangai Amaran
For Respondents : Mr.T.Senthil Kumar,
Addl. Public Prosecutor for R1.

O R D E R

This criminal original petition has been filed to quash the FIR in Crime No.128 of 2021 registered on the file of the first respondent.

2.The petitioner is said to have opened his chicken and mutton stall in violation of the prohibitory orders issued during the pandemic period. The FIR was registered against the petitioner for the offences under Sections 188 and 269 of IPC. It has been held in the decision reported **2018(2) L.W (Crl.)606 (In Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another)** that a police officer cannot register an FIR for any of the offences falling under Sections 177 to 188 of IPC. Therefore, the very registration of a case against the petitioner under Section 188 of IPC is illegal. It



is not the case of the prosecution that on account of the petitioner's conduct, disease actually spread during the pandemic. Therefore, the impugned FIR stands quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// 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 concerned.

To:

- 1.The Inspector of Police,
Kulathur Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD)No.19147 of 2021
03.12.2021

RD(20.12.2021) 2P 3C