



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20236 of 2021

Chithiraputhiran @ Chithraiputhiran ... Petitioner/Sole Accused

Vs.

1.The State through

The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.

(Crime No.202 of 2021)

... Respondent No.1/

Complainant

2.Gabriel

... Respondent No.2/

Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the FIR in Crime No.202 of 2021 dated 20.05.2021 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.S.J.Chakkaravarthy

For Respondents : Mr.E.Antony Sahaya Prabahar,

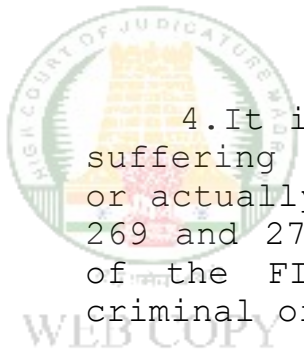
Addl. Public Prosecutor, for R1

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

2.The case of the prosecution is that on 10.05.2021, the petitioner was found roaming in his two wheeler. Hence, Crime No.202 of 2021 was registered for the offences under Sections 296 and 270 of IPC and Section 3 of Epidemic Diseases Act, 1897.

3.Section 3 of Epidemic Diseases Act, 1897, states that any person disobeying any regulation or order made under the Act shall be deemed to have committed an offence punishable under Section 188 of IPC. It has been held in the decision reported in **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 any FIR for the offence under Section 188 of IPC. Therefore, what was laid down in Jeevanandhan's case would squarely apply to Section 3 of Epidemic Diseases Act, 1897.



4.It is not a case of the respondents that the petitioner was suffering from Covid-19 disease or that he knowingly attempted to or actually spread the said disease. Therefore, invoking Sections 269 and 270 of IPC is also not warranted. The very registration of the FIR is not maintainable and it stands quashed. The criminal original petition is allowed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

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,
Suchindram Police Station,
Kanyakumari District.

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

+1 CC to M/s.S.J.CHAKKARAVARTHY, Advocate (SR-39543[F] dated 20/12/2021)

**Cr1.O.P(MD)No.20236 of 2021
20.12.2021**

KMV(CO)
SB(07.01.2022) 3P 4C