



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20643 of 2021

and

Crl.M.P. (MD)No.11743 of 2021

WEB COPY

A.Jesse ... Petitioner / Accused No.1

Vs

1.State rep. by its
The Inspector of Police,
Uvari Police Station,
Tirunelveli District.
(Crime No.42 of 2020) ... 1st Respondent/ Complainant

2.Carlose
Sub Inspector of police,
Uvari Police Station,
Tirunelveli District. ... 2nd Respondent/
Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in Crime No.42 of 2020 on the file of the first respondent police and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.R.J.karthick
For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

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 16.04.2020, the petitioners were found roaming in two wheelers in violation of the lock down restrictions. Hence, Crime No.42 of 2020 was registered for the offences under Sections 188 and 296 of IPC.

3. It is well settled that the police could not have registered an FIR for the offence under Section 188 of IPC as that would run counter to Jeevanandham case (2018 2 Law Weekly Crl. 606). It is not the case of the prosecution that the accused were suffering from any infection. Therefore, the question of spreading disease did not arise. Since no adverse consequence ensued, the



question of invoking Section 269 of IPC did not arise. The very registration of the impugned FIR is not warranted. It stands quashed. The benefit of this order will enure in favour of the non-petitioning accused also.

4. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

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,
Uvari Police Station,
Tirunelveli District.
- 2.The Sub Inspector of police,
Uvari Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-40512[F] dated 28/12/2021)

Crl.O.P(MD)No.20643 of 2021
23.12.2021

RD(10.01.2022) 2P 5C