



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.1227 of 2022
and
Crl.M.P.No.475 of 2022

R.Vijayan

... Petitioner/Accused

Vs.

The State Rep by its,
The Sub Inspector of Police,
Kunnathur Police Station,
Tiruppur District,
Crime No.192 of 2020

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.192 of 2020 on the file of the respondent police and quash the same.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records in Crime No.192 of 2020 on the file of the respondent police and quash the same.

2.The gist of the case is that on 14.04.2020, at about 2.30 p.m., despite the prohibitory order under Section 144 Cr.P.C., was in force, the petitioner was roaming without wearing mask in his Yamaha Cruk Bike bearing registration No.TN36E6745. Hence, the respondent Police secured him and registered a case in Crime No.192 of 2020, for the offence, under Section 269 IPC.

3.The learned counsel for the petitioner submitted that the petitioner is a daily labor. Due to covid 19, his daily income



was completely deprived and unable to satisfy his family needs. For purchasing essential items the petitioner having no other option went outside. He further submitted that the petitioner had applied for Passport to go abroad for earning and the same has been kept in abeyance due to pendency of the FIR. The learned counsel for the petitioner further submitted that the petitioner is a law abiding citizen, he has not involved in any offence as alleged by the respondent police. In such case, implicating the petitioner under this offence is void ab initio. The petitioner had not indulged in any activity of spreading the disease to others and hence, the FIR is liable to be quashed.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the Government had passed prohibitory order under Section 144 Cr.P.C., due to Corona Pandemic. Despite warning of the respondent Police, the petitioner unnecessarily roamed in and around the village without any reason and involved in spreading of Corona virus. Hence, the FIR came to be registered against the petitioner.

5.This Court considered the rival submissions and perused the materials available on record.

6.On a perusal of records and submissions of both sides, it is seen that on 14.04.2020, the petitioner went out without any reason, while prohibitory orders was in force under Section 144 Cr.P.C. A case can be registered only if a person indulges in the act to believe that the disease can be spread to others. But in this scenario, the petitioner went out to fulfill his family needs and as such, there is no possibility to believe about the spread of disease through the petitioner. The offence is not made out, because the petitioner did not indulge in any activity that may spread disease to others. Hence, this Court is inclined to allow this petition.

7.In the result, the impugned FIR in Crime No.192 of 2020, dated 14.04.2020, on the file of the respondent Police is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Inspector of Police,
Kunnathur Police Station,
Tiruppur District,
Crime No.192 of 2020

2. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.Myilsamy, Advocate, S.R.No.6122

Cr1.O.P.No.1227 of 2022

SSN(CO)
SU(16/02/2022)