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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.1925 of 2022

and

CRL.M.P.No.822 of 2022

Mohamed Ghouse Malimar

...Petitioner

Versus

The State Rep. by
The Sub-Inspector of Police
Killai Police Station,
Cuddalore District.
(In Crime No.158 of 2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the First Information Report in Crime No.158 of 2020, pending investigation on the file of the respondent Police.

For Petitioner : Mr.M.Saravanan

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

O R D E R

The petitioner, who is an accused in Crime No.158 of 2020 for the offence under Sections 271 and 188 of IPC has filed this quash petition.

2. The gist of the case is that on 24.03.2020, during the prohibitory order under Section 144 Cr.P.C. was passed by the Government of India and Tamil Nadu, to prevent spreading of the COVID-19 disease, on 10.06.2020 Mr.K.Lakshmi Raman, the Sub-Inspector of Police, Killai Police Station and his Police party attached to his station were on disinfectant duty towards Thillaividangan - Killai limits during COVID-19. At that time, the petitioner was alleged to have come out from the home by a two wheeler bearing registration number TN 91 H 6603 Pulsar without wearing mask and by violating the prohibitory order an roaming around the area, despite the repeated warning of the



police patrol. Therefore, the case in Crime No.158 of 2020 under Sections 271 and 188 IPC was registered, as against which, the present quash petition is filed.

the petitioner was roaming on the streets in his Passion Pro bike bearing Registration No.TN-31-AR-8975. Hence, the respondent Police registered a case in Crime No.1004 of 2020 for the offence under Sections 188 and 269 IPC, as against which, the present quash petition is filed.

3. The contention of the petitioner is that on the alleged date, he went to shop to purchase his family essential needs. He is completely unaware of the present case registered against him. Only at the time of obtaining entry visa to go abroad for his survival, he came to know about the registration of the present case.

4. The learned counsel for the petitioner submitted that the petitioner is a law abiding citizen. He went to shop to purchase his family essential needs. 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, hence, the FIR is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the government had implemented prohibitory order under Section 144 Cr.P.C. due to Corona Pandemic. The respondent police also warned the petitioner not to roam in the streets. In spite of the warning, he was roaming in the streets and involved in the spreading of Corona virus. Hence, the complaint came to be registered against the petitioner.

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

7. On a perusal of records and submissions of both sides, it is seen that on 10.06.2020, the petitioner went to shop to purchase his family essential needs. While prohibiting order is 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 needs and as such, there is no possibility to believe about the spread of disease. 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.



8. In the result, the impugned order in Crime No.158 of 2020, dated 10.06.2020 on the file of the respondent is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Sub-Inspector of Police
Killai Police Station,
Cuddalore District.

2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.G. Pugazhenthii, Advocate sr 5785

CRL.O.P.No.1925 of 2022
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NK(CO)
SP(01/02/2022)