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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4988 of 2022
and Crl.M.P.No.2651 of 2022

Vijayraaj

... Petitioner/Sole Accused

Vs.

The State represented by
The Inspector of Police,
V-7, Nolambur Police Station,
Anna Nagar, Chennai.

... Respondent/Complainant

Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in Crime No.639 of 2021, on the file of the respondent and to quash the same as against this petitioner.

For Petitioner : Mr.V.Sridhar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.639 of 2021, on the file of the respondent police as against the petitioner.

2. The case of the prosecution is that on 17.06.2021 at about 08.00 hours, when the respondent police were on their patrol duty to ensure non-violation of the restrictions imposed by the Central and State Government to prevent the spread of Corona, they had intercepted the petitioner, who was riding his Royal Enfield motorcycle bearing Registration No.TN-05-BT4991 in violation of the restrictions and thereupon, the respondent police has registered a case against the petitioner in Crime No.639 of 2021, for the offences punishable under Sections 143 & 269 of IPC and Section 3 of the Epidemic Diseases Act, 1897.



3. Learned counsel appearing for the petitioner would submit that the petitioner is a Chef in a leading Restaurant and he was on the way to his duty on the relevant day, of course, with proper e-pass and thereby he had not violated any restrictions imposed by the Governments, however, the respondent police, without conducting any preliminary enquiry as to the genuineness of the case of the petitioner, had mechanically registered a complaint against him. He would further submit that the petitioner has got an employment offer from abroad in the meanwhile, however, he could not pursue it by completing passport formalities due to the pendency of the present complaint. He would submit that the long pendency of the FIR which was lodged in a mechanical manner is an abuse of process of law and the petitioner is put to much hardship as his livelihood is being affected and therefore, he seeks indulgence of this court in quashing the impugned FIR.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor and perused the materials produced by the petitioner in support of his contention.

5. Learned Additional Public Prosecutor would submit that the petitioner was found loitering on 17.06.2021 at 08.00 hours, in defiance of the SOP issued by the Central and State Government and as a preventive measure, he was arrested and a case has been filed and he prays for dismissal of the petition.

6. A perusal of the materials available on record reveals that the FIR has been registered by the respondent police in a routine and mechanical manner without any ingredients against the petitioner and without considering the genuineness of the case of the petitioner. The contents of the FIR also reveals that the petitioner has not acted in any wrongful manner warranting registration of a case against him. Further, the materials produced by the petitioner show that he had a valid e-pass at the relevant time which probabilises the case of the petitioner.

7. The restrictions imposed by the Government can only be for the welfare of the citizens and it cannot be a hindrance for their livelihood especially when their financial status has already come down to a large extent due to the restrictions which they faced for more than two years. The FIR in the case on hand having been lodged on 17.6.2021 in a routine manner, almost a year is going to lapse and it stands as a hurdle in the way of the petitioner in his struggle for bread winning.

8. Therefore, this court is of the view that the FIR is liable to be quashed forthwith. Accordingly, it is quashed.



The Criminal Original Petition is allowed. The connected Criminal Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
V-7, Nolambur Police Station,
Anna Nagar, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.Muthu pandi, Advocate, S.R.No.14886

Cr1.O.P.No.4988 of 2022
and Cr1.M.P.No.2651 of 2022

PMK(CO)
CT 23/03/2022