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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6120 of 2022 and
Crl.M.P.No.3420 of 2022

Kavinraj ...Petitioner/Accused-4

-Vs-

1.State Rep by,
Inspector of Police,
Sulur Police Station,
Coimbatore.
Crime No.550 of 2021.

...1st Respondent/Complainant

2.Palaniyandi ...2nd Respondent/Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records in FIR in Crime No.550 of 2021 dated 02.06.2021 pending investigation on the file of the first respondent police and quash the same.

For Petitioner : Mr.M.Jaikumar

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

O R D E R

The Criminal Original Petition has been filed to call for the records in Crime No.550 of 2021 on the file of the first respondent and quash the same.

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

3. The case of the petitioner is that on 02.06.2021 at about 14.45p.m., the petitioner and others were roaming in the road in his two wheeler bearing registration No.TN 37 DY 4009 at the time of prohibition due to COVID-19 pandemic. Hence, a case in Crime No.550 of 2021 for the offences punishable under Section 269 of IPC has been registered. The present petition is filed to quash the First Information Report in Crime No.550 of 2021.



4.This petition is filed mainly on the ground that Section 269 IPC is concerned, there is no intention on the part of the petitioner to spread the disease to another and simply he was roaming in the road.

5.In the judgment reported in 2018(2) L.W (Cr1.) 606 In Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another), it has been held that the police has no right to file a case under Section 188 IPC and to investigate the same without getting proper permission from the concerned jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the respondent has no right to register the case and to investigate the matter. A detailed guideline has been issued by this Court in the judgment cited supra.

6.The offence under Section 269 IPC is concerned, as per the contents of the First Information Report, it is seen that the petitioner was simply roaming in the road. It is a trivial matter in which no offence of grievous nature is involved. Even though Section 144 Cr.P.C order was in force, during the relevant time the respondent police ought to have warned the petitioner to go in-door, instead of that, they filed a case. It is also not the case of the respondent police that at the time of the incident, the petitioner was affected by COVID-19. So the contention that roaming in the road during the pandemic period will spread the disease is without any basis.

7.Considering the nature of allegations and the offences involved in this case, I am of the considered view that roaming in the road without any reason should not be a reason for spoiling the future of the petitioner. Moreover, the Government is also going to drop all these cases, which have been registered during the pandemic period against the public. Taking all these aspects into account, I am of the considered view that the First Information Report in Crime No.550 of 2021 on the file of the first respondent is liable to be quashed and accordingly, the same is quashed.

8. In the result, this petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar



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To

1.The Inspector of Police,
Sulur Police Station,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.Jaikumar, Advocate SR. No.19066

Cr1.O.P.No.6120 of 2022 and
Cr1.M.P.No.3420 of 2022

SKM (CO)
PR (08/04/2022)