



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.8781 of 2022

Maheshkumar

... Petitioner

Vs

The State Represented by,
The Inspector of Police,
Ulundurpet Police Station,
Kallakurichi District.
(Crime.No.779 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, pleased to call for the records of the proceedings in Crime No.779 of 2020 on the file of the Ulundurpet Police Station, Kallakurichi District, and quash the same.

For Petitioner : Mr.B.Abdul Samath
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed, to call for the records of the proceedings in Crime No.779 of 2020 on the file of the Ulundurpet Police Station, Kallakurichi District, and quash the same.

2. The brief facts of the case is that the respondent has suo motu registered a case in Crime No.779 of 2020 against the petitioner for the offences punishable under Sections 269 and 271 of I.P.C. The allegation in the complaint against the petitioner is that on 06.06.2020, when the Sub-Inspector of Police, Ulundurpet Police Station, Kallakurichi District, accompanied with two other policemen were on patrol duty to see whether anyone was violating the Section 144 Cr.P.C issued by the Central and State Government to prevent the spread of the Corona, the petitioner was found loitering without mask nearby Ulundurpet Bus stand and when the respondent had enquired the petitioner, he has not stated any reasons. Based on the complaint given by the Sub-Inspector of Police, a case in Crime No.779 of 2020 was registered for the offences punishable under Sections 269 and 271 of IPC.



3. The learned counsel for the petitioner would submit that the petitioner had come out of his house for purchase of medicines during Covid-19 pandemic period, whereas, the respondent had registered a case against him. He would further submit that the respondent cannot straight away registered the case under Sections 269 and 271 of IPC and there is no material to show that the petitioner had intentionally come out to spread infection to others.

4. The learned counsel appearing for the petitioner would submit that the petitioner applied for passport seeking job in abroad. When the case is pending, it came to notice of this Court that because of the pendency of the case, enquiry of the Passport Officer is kept pending. He would further submit that the Government has also issued orders directing the withdrawal of cases registered during Covid-19 pandemic period and the withdrawal cases have registered for violation of Covid-19 pandemic rules.

5. The learned counsel appearing for the petitioner would further submit that the facts of the case are similar to the case covered in the decision reported in 2018 2 LW (Crl) 606 [Jeevanandham and others Vs The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018 and in Sri Raja Vs Inspector of Police, Sivakasi Town Police Station Virudhunagar District and other in Crl.O.P(MD). No.7922 of 2019 etc batch dated 30.08.2019.

6. The learned counsel for the petitioner would submit further that in a similar circumstances, the Madurai Bench of this Court had quashed the proceedings and had allowed the petitions in the following cases:-

(i) C.Manikandan Vs The Sub-Inspector of Police, Thoothukudi District made in Crl.O.P(MD).No.9150 of 2021 dated 12.07.2021.

(ii) Prakash Vs The Inspector of Police, Madurai and another made in Crl.O.P(MD).No.8657 of 2021 dated 13.07.2021.

(iii) Astile Sebas Vs The Sub Inspector of Police, Kanyakumari District and another made in Crl.O.P(MD).No.4819 of 2021 dated 19.07.2021.

(iv) S.Rajendran Vs The Inspector of Police, Madurai District and another made in Crl.O.P(MD).No.9724 of 2021 dated 22.07.2021.

7. The learned counsel for the petitioner would also submit that in the aforesaid cases, this Court finding that it is trivial in nature in which no offence of grievous nature is involved and that the petitioners have not intentionally done any Act to spread the disease, has quashed the proceedings. He



would also submit that in similar matters, the Government has also proposed to drop the proceedings, which have been registered during the pandemic period against the public.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was found loitering on 06.06.2020 during Covid-19 pandemic/lockdown period, in defiance the Standard Operating Procedure (SOP) issued by the Central and State Government. He would further submit that the facts of this case are covered under the Judgment referred above.

9. Heard both sides and perused the materials available on record.

10. The offence under Sections 269 and 271 of IPC are concerned, as per the contents of the First Information Report, it is seen that the petitioner loitering without mask during the pandemic period. 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, the respondent filed a case. Section 269 of IPC is concerned, it specifies the negligent act to spread infection of any disease dangerous to life and Section 271 of IPC is concerned, it specifies the disobedience to quarantine rule.

11. Further, there is no material to prove that the petitioner had knowingly attempted to spread infection of any disease dangerous to life and it is also not the case of the respondent that at the time of the incident, the petitioner was affected by Covid-19 virus. So, the contention that coming out during pandemic period will spread the disease is without any basis.

12. Section 269 of IPC defines negligent act likely to spread infection of disease dangerous to life as under:-

"269. Negligent act likely to spread infection of disease dangerous to life-

Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

13. Section 271 of IPC defines Disobedience to quarantine rule as under:-



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"271. Disobedience to quarantine rule-

Whoever knowingly disobeys any rule made and promulgated by the Government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

14. Considering the nature of allegations and the offence involved in this case, this Court is of the opinion that coming out of the house during pandemic period should not held to be a reason for spoiling the future of the petitioner. Unintended casual act, without any act of violence, should not take away the future of the petitioner. Moreover, it is also brought to the notice of this Court that the Government is also going to drop all these cases, which have been registered during the pandemic period against the public.

15. Taking all these aspects into account, this Court is of the considered view that the proceedings pending in Crime No.779 of 2020 dated 06.06.2020 on the file of the respondent is nothing but abuse of process of law and is hereby quashed. This Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

rgm/arb

To

1. The Sub Inspector of Police,
Ulundurpet Police Station,
Kallakurichi District.

2. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.B.Abdul Samath, Advocate, S.R.No.26918

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PM[co]

NSK 05/05/2022