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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6/6/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Criminal Original Petition No.10367 of 2022

Thangasami

...Petitioner

Vs

State

rep. By The Inspector of Police
Cuddalore O.T.Police Station
Cuddalore District.

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in Crime No.1008 of 2020 on the file of the respondent Police and quash the same.

For Petitioner ... Mr.A.T.Anbu Kumar

For Respondent ... Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash Crime No.1008 of 2020 on the file of the respondent Police.

2. The allegation in the First Information Report is that when the prohibitory orders were in force, the petitioner during COVID pandemic, found in the street, and thereby, he was slapped with Sections 188 and 270 of the Indian Penal Code.

3. Heard Mr.A.T.Anbu Kumar, learned counsel for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the respondent.

4. For initiation of the complaint, under Section 188 of the Indian Penal Code, proper complaint ought to have been filed before the Court, as per Section 195 of the Code of Criminal Procedure. Without filing of such a compliant, Police cannot proceed with investigation under Section 188 of Indian Penal Code. Offence under Section 270 of the Indian Penal Code was



fastened on the accused on the ground that the accused was loitering around when the spread of COVID 19 was at its peak, unmindful of the fact that he may catch COVID and may be a carrier for COVID 19. Therefore, merely being found in the street, without any other act on his part, it cannot be presumed that his act would likely to spread COVID.

5. In such a view of the matter, continuing the prosecution is a futile exercise and if the entire allegation in the First Information Report is taken together, it would not constitute any offence and hence, this Court is of the considered view to quash the Crime No.1008 of 2020, on the file of the respondent Police.

6. Accordingly, this Criminal Original Petition is allowed and Crime No.1008 of 2020 on the file of the respondent Police, is quashed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Inspector of Police
Cuddalore O.T. Police Station
Cuddalore District.
2. The Public Prosecutor
High Court
Madras.

CrI. O.P. No. 10367 of 2022

PMK (CO)
PR (14/06/2022)