



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14/6/2022

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl. O.P. No.9957 of 2022

a n d

Crl.M.P.No.5896 of 2022

K. Gopalakrishnan

...Petitioner / Accused 1

Vs

The State
rep. By The Inspector of Police
Orleanpet Police Station
Puducherry.

...Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the FIR registered against the petitioner in Crime No.220 of 2020 dated 5/11/2020 on the file of the respondent Police, the Inspector of Police, Orleanpet Police Station, Pondicherry.

For Petitioner ... Mr.B.Balavijayan

For Respondent ... Mr.A.Gokulakrishnan

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the FIR registered against the petitioner in Crime No.220 of 2020 dated 5/11/2020 on the file of the respondent Police, the Inspector of Police, Orleanpet Police Station, Pondicherry.

2. The crux of the allegation in the F.I.R. is that the petitioner, during Covid pandemic, despite prohibitory order, has assembled at the entrance of the New Bus Stand in Maraimalai Adigal Salai and agitated against the implementation of road tax for the tourist vehicles, thereby, the F.I.R. has been registered against the agitators, for the offence punishable under Sections 143, 341, 270, 188, 283, 506 (i) and 149 of the Indian Penal Code along with Section 51 (b) of Disaster Management Act and Section 3 of Epidemic Disease Act.



3. Heard Mr.B.Balavijayan, 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 complaint, 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 view of the matter, no purpose would be served in continuing the F.I.R. Hence, the same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the F.I.R. in Crime No.220 of 2020 on the file of respondent police is quashed against the petitioner/A.1 alone. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

mvs.

To

1. The Inspector of Police
Orleanpet Police Station
Puducherry.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Balavijayan, Advocate, S.R.No.36003

Cr1. O.P. No.9957 of 2022

PMK[co]
NSK/28/06/2022