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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9679 of 2022

V.Chinnamani

... Petitioner

Vs

The State Represented by
The Inspector of Police,
Vadalur Police Station,
Vadalur,
Cuddalore District.
Tamilnadu.

... Respondent

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to quash the FIR in Crime No.497 of 2020 on the file of the respondent police against the petitioner.

For Petitioner : Mr.M.Ragul Kousik

For Respondent : Mr.A.Gokulakrishnan

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.497 of 2020 on the file of the respondent police against the petitioner.

2. The case of the prosecution is that on 22.06.2020, at about 14.30 p.m., when the respondent police were patrolling around the Vadalur MRK Bus stand, the petitioner was standing near the spot without wearing mask and thereby, the respondent suspected him of violating Section 144 of Cr.P.C., imposed by the Government to curb the spread of Corona virus pandemic. For which, the respondent police registered case in Crime No. 497 of 2020 for the offences under Section 269 of IPC r/w Section 3 of Epidemic Diseases Act, 1887. The said criminal proceedings is under challenge in this criminal original petition.



3. The learned counsel 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 the case of 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. He would further submit that though the petitioner was standing near the bus stand during the Covid-19 pandemic period, there is no material to show that neither the petitioner was affected by Covid-19 nor he indulged in any Malignant Act likely to spread infection of disease dangerous to life.

4. The learned counsel for the petitioner also relied on the Judgment of the Madurai Bench of this Court in the case of B.Vincent Balaji Vs The Inspector of Police, Madurai District and another made in Crl.O.P(MD).No.14795 of 2021 dated 01.10.2021 and the Judgement of this Court in the case of William Carry @ William Geri Vs The Inspector of Police, Tiruppur District made in Crl.O.P.No.25413 of 2021 dated 03.01.2022.

5. The learned Additional Public Prosecutor for the respondent would submit that the petitioner in violation of Covid-19 protocol during the Covid-19 pandemic period, had standing in the MRK bus stand, thereby had attempted to spread infection to others. However, he would fairly concede that there was no violence.

6. Heard the learned counsel and perused the materials available on record.

7. The offence under Section 269 of IPC is concerned, as per the contents of the First Information Report, it is seen that the petitioner was standing near the bus stand 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, they filed a case. 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 standing near the spot during the pandemic period will spread the disease is without any basis.



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8. 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."

9. In the light of the above definitions, for attracting the offences under Section 269 IPC also, there are no materials to show that the petitioner was affected by Covid-19 virus and because of his presence, virus spread to others. Since in the absence of any such materials on record, the offence punishable under Section 269 IPC is not attracted.

10. Considering the nature of allegations and the offences involved in this case, this Court is of the considered view that it is not the case that the petitioner was affected with Covid-19, so as to spread the infection to others.

11. Taking all these aspects into account, this Court is of the opinion that the proceedings in Crime No.497 of 2020 on the file of the respondent police is liable to be quashed and the same is quashed. Accordingly, this Criminal Original Petition is allowed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,
Vadalur Police Station,
Vadalur,
Cuddalore District.
Tamilnadu.



2.The Public Prosecutor,
High Court of Madras.

+1 CC to Mr.M.Ragul Kousik, Advocate sr 29821.

Cr1.O.P.No.9679 of 2022

SKM(CO)
SP(17/05/2022)