



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.06.2022
CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.13187 of 2022
and Crl.M.P.No.7097 of 2022

G.Vijay
S/o.Gopal,

... Petitioner

Vs.

State rep. by
The Sub Inspector of Police,
Manavalanagar Police Station,
Tiruvallur.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings as against the petitioner in Crime No.309 of 2020, pending on the file of the respondent.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Govt. Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings as against the petitioner in F.I.R. in Crime No.309 of 2020, pending on the file of the respondent.

2. The prosecution case is that when the defacto complainant viz. the Sub Inspector of Police was on his usual routine check up when COVID Lock down 144 Cr.P.C. was in force, the petitioner was wandering in the public place with his two wheeler bearing Regn. No.TN 20 CQ 5402. Hence F.I.R. came to be registered for the alleged offence u/s.188 and 269 I.P.C. r/w 51 of Disaster Management Act, 2005.

3.Heard Mr.R.Sasikumar, the learned counsel appearing for petitioner and Mr.Leonard Arul Joseph Selvam, the learned Government Advocate (Crl. Side) appearing for respondent and perused the F.I.R.

4. The offences are under Sec.188 and 269 I.P.C. As far as Sec.188 I.P.C. is concerned, no Courts shall take cognizance of the offence except on a complaint made by the



public servant. In fact, it is a complaint procedure and the police personnel cannot investigate directly. As far as Section 269 of I.P.C. is concerned, except the allegation that the petitioner, despite prohibitory order, the petitioner was wandering in the public place with his two wheeler bearing Regn. No.TN 20 CQ 5402. during COVID pandemic, and he has been charged for the alleged offence as stated. It is not the case of prosecution that the petitioner has infected with COVID, thereby his act was amounting to spread the disease. In the absence of any such materials that the petitioner is infected with COVID, which will be likely to spread to others, and the petitioner was wandering in the public place with his two wheeler bearing Regn. No.TN 20 CQ 5402, hence the prohibitory order does not constitute an offence.

5. In such view of the matter, no purpose would be served in continuing the F.I.R. Hence, the same is liable to quashed. Accordingly, this Criminal Original Petition is allowed and the F.I.R. in Crime No.309 of 2020 on the file of the respondent police is quashed against the petitioner. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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1.The Sub Inspector of Police,
Manavalanagar Police Station,
Tiruvallur.

2.The Public Prosecutor
High Court of Madras,
Chennai.

+2 ccs to Mr.R.Sasikumar, Advocate Sr.NO. 34668

Cr1.O.P.No.13187 of 2022
and Cr1.M.P.No.7097 of 2022

GPL(CO)
A.SK(01/07/2022)