



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.22489 of 2021

A.Balakrishnan

... Petitioner/Sole Accused

Vs.

The State rep. by
The Sub Inspector of Police,
Cuddalore OT Police Station,
Cuddalore District,
in Crime No.383 of 2020

... Respondent/Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records of the proceedings in Crime No.383 of 2020 on the file of the Cuddalore OT Police Station, Cuddalore District and quash the same.

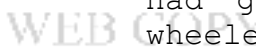
For Petitioner : Mr.N.Mahendra Babu

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to call for the records of the proceedings in Crime No.383 of 2020 on the file of the Cuddalore OT Police Station, Cuddalore District and quash the same.

2.The case of the prosecution is that on 30.04.2020 at 10.30 a.m., while the police patrols were near the Cuddalore OT Manikoundu under Cuddalore Police Station, the petitioner was travelling on his Bajaj Pulsor two wheeler bearing Registration No.PY 01 AH 7908 on suspicion of violating the Government ban on the spread of Corona Virus on the road. It is the further case of the respondent that the petitioner had also violated Section 144 IPC. For which a case came to be registered in Crime No.383



3.The contention of the petitioners is that the petitioner had gone to the medical shop by using his Bajaj Pulso two wheeler bearing Registration No.PY 01 AH 7908, for purchasing medicine for ill health of his two year child. He further submitted that he took the photo on his mobile phone, when the respondent police asked for prescription, and shown his mobile, even then the respondent police beaten him with his lathi and took the keys of the petitioner's vehicle and asked him to come and collect it from the Police Station. The petitioner had reached the Police station and informed the above said facts to them, but they filed the above case against the petitioner. Petitioner not violated any lockdown norms imposed by the Government of Tamil Nadu. Aggrieved against which he had filed the above said petition to quash the FIR in Crime No.383 of 2020 on the file of the respondent police.

5. Considering the rival submissions and on perusal of the materials it is admitted fact that no public lodged complaint and no public got affected by the act of petitioner. Surprisingly no public or independent witness examined by the prosecution, which causes serious doubt on the veracity of the complaint. Further, this Court in the case of "Jeevanandham and others Vs. State Rep. by Inspector of Police and another reported in (2018) 2 LW CrL. 606" had clearly held that the police officials are not empowered to register a case under Section 188 IPC and the same is barred under Section 195 Cr.P.C. There is no material to show that there was any promulgation of prohibitory orders which was communicated to the public and there was any disobedience by the petitioner and the prosecution failed to show whether any trouble occurred. The respondent Police failed to follow the guidelines issued by this Court in Jeevanandham (Cited Supra). In several cases, further there is no material to show that the petitioner was affected with Corona Virus, and he was a potential carrier causing health hazard. In view of the same, this Court quashed the proceedings of several cases on similar ground.



6. In the result, the FIR in Crime No.383 of 2020 on the file of the respondent, is hereby quashed against the petitioner.

7. Accordingly, this Criminal Original Petition is allowed.

WEB COPY

Sd/-
Assistant Registrar (Digit)

//True Copy//

Sub Assistant Registrar

ah

To

1. The Judicial Magistrate No.II,
Cuddalore District.
2. The Sub Inspector of Police,
Cuddalore OT Police Station,
Cuddalore District
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Mahendra Babu, Advocate, S.R.No.3603

Cr1.O.P.No.22489 of 2021

NR(CO)
SU(18/02/2022)