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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23112 of 2021 and
Crl.M.P.No.12665 of 2021

M. Maharajan

... Petitioner

Versus

The State,
Rep. By the Inspector of Police,
Ariyalur Police Station,
Ariyalur District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to Crime No.727 of 2020 on the file of the respondent and quash the same as illegal, incompetent and abuse of process by allowing the present Criminal Original Petition.

For Petitioner : Mr.R.Jayaprakash

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

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.727 of 2020, dated 27.04.2020 on the file of respondent Police.

2.The gist of the case is that on 27.04.2020, despite the prohibitory order under Section 144 Cr.P.C., was in force, the petitioner was roaming in his locality with two wheeler without following the regulations of COIVD-19 protocol. Hence, the respondent Police secured him and registered a case in Crime No.727 of 2020, for the offence, under Sections 269, 270, 271 & 188 of IPC.

3.The learned counsel for the petitioner submitted that the petitioner has completely unaware of the impugned FIR registered against him and due to an emergency need the petitioner had come



out of his house during the said period. He further submitted that the petitioner is a law abiding citizen, he has not involved in any offence as alleged by the respondent police. In such case, implicating the petitioner under this offence is void ab initio. The petitioner had not indulged in any activity of spreading the disease to others and hence, the FIR is liable to be quashed.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the Government had passed prohibitory order under Section 144 Cr.P.C., due to Corona Pandemic. Despite warning of the respondent Police, the petitioner unnecessarily roamed in and around the locality without any reason and involved in spreading of Corona virus. Hence, the FIR came to be registered against the petitioner.

5.This Court considered the rival submissions and perused the materials available on record.

6.On a perusal of records and submissions of both sides, it is seen that on 27.04.2020, the petitioner went out without any reason, while prohibiting order was in force under Section 144 Cr.P.C. A case can be registered only if a person indulges in the act to believe that the disease can be spread to others. But in this scenario, the petitioner went out to fulfill his family needs and as such, there is no possibility to believe about the spread of disease through the petitioner. The offence is not made out, because the petitioner did not indulge in any activity that may spread disease to others. Hence, this Court is inclined to allow this petition.

7.In the result, the impugned FIR in Crime No.727 of 2020, dated 27.04.2020, on the file of the respondent Police is quashed. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

anu/dpq
To

1.The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.



2.The Public Prosecutor,
High Court, Madras.

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+1cc to Mr.R.Jayaprakash, Advocate SR.3599

CrI.O.P.No.23112 of 2021

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srg 02/02/2022