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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.24188 of 2021

Thamilvanan

... Petitioner

Versus

The Inspector of Police,
Kuthalam Police Station,
Mayiladuthurai District.
(Crime No.636/2020).

... Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records of the FIR in Crime No.636 of 2020 pending on the file of the respondent police and quash the same.

For Petitioner : Mr.J.Hema Kumar for
Mr.S.Satheeshkumar

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

O R D E R

The petitioner, who is an accused in Crime No.636 of 2020 dated 28.04.2020 for the offence under Sections 188, 269, 270 IPC r/w 179 of MV Act 1988 has filed this quash petition.

2. The gist of the case is that on 13.05.2020, at about 13.05 hrs, despite the prohibitory order under Section 144 Cr.P.C. was in force, the petitioner was driving the two wheeler bearing Registration No.TN-82-D-4885. Hence, the respondent Police registered a case in Crime No.636 of 2020 for the offence under Sections 188, 269, 270 IPC r/w. 179 of MV Act 1988, as against which, the present quash petition is filed.

3. The contention of the petitioner is that he has been arrested and released on own bail on the same day. However, the case is still pending as against the petitioner. The learned counsel for the petitioner 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, hence, the FIR is liable to be quashed.

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4. The learned Additional Public Prosecutor appearing for the respondent submitted that the government had implemented prohibitory order under Section 144 Cr.P.C. due to Corona Pandemic. The respondent police also warned the petitioner not to roam unnecessarily. In spite of the warning, he was roaming without any reason and involved in the spreading of Corona virus. Hence, the complaint 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 13.05.2020, the petitioner went out without any reason in two wheeler bearing No. TN-82-D-4885. While prohibitory order was in force under Section 144 Cr.P.C., and 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. The offence is not made out, the petitioner not indulged in any activity that may spread disease to others. Hence, this Court is inclined to allow this petition.

7. In the result, the impugned order in Crime No.636 of 2020 dated 13.05.2020 on the file of the respondent is quashed. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jas/bkn

To

1. The Inspector of Police,
Kuthalam Police Station,
Mayiladuthurai District.
(Crime No.636/2020).



2. The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Vinodha, Advocate, S.R.No.4522

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PL (CO)
CT 17/02/2022