



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.24186 of 2021

and

Crl.M.P.No.13341 of 2021

Abdul

...Petitioner

Versus

The Sub Inspector of Police,
Mangalampet Police Station,
Cuddalore District.

Crime No.931 of 2021.

...Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to dispense with the production of the certified copy of F.I.R. in Crime No.931 of 2021 dated 21.07.2021 on the file of the respondent police pending disposal of the quash petition; stay all further proceedings in connection with FIR in Crime No.931 of 2021 dated 21.07.2021 on the file of the respondent police pending disposal of the quash petition and to call for the records in connection with FIR in Crime No.931 of 2021 dated 21.07.2021 on the file of the respondent police and quash the same.

For Petitioner :Mr.S.Saravana Kumar

For Respondent :Mr.E.Raj Thilak

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.931 of 2021, dated 21.07.2021 on the file of respondent Police.

2.The gist of the case is that on 21.07.2021, at about 11.20 a.m., despite the prohibitory order under Section 144 Cr.P.C., was in force, the petitioner was roaming without wearing mask near Mangalampet Pillar Checkpost. Hence, the respondent Police



secured him and registered a case in Crime No.931 of 2021, for the offence, under Sections 188 and 271 IPC.

3.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 and hence, the FIR is liable to be quashed.

4.The learned Government Advocate (Crl. Side) 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 village 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 21.07.2021, the petitioner went out without any reason, while prohibitory 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.931 of 2021, dated 21.07.2021, on the file of the respondent Police is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



jas/bkn

To

WEB COPY

1.The Sub Inspector of Police,
Mangalampet Police Station,
Cuddalore District.
Crime No.931 of 2021.

2.The Public Prosecutor
High Court, Madras.

Crl.O.P.No.24186 of 2021
and
Crl.M.P.No.13341 of 2021

pch[co]
srg 10/02/2022