



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23540 of 2021 and
Crl.M.P.No.12930 of 2021

Sanjay

... Petitioner

Versus

State rep. by
The Sub Inspector of Police,
Thiruvallur Taluk 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.156 of 2020, pending on the file of the respondent.

For Petitioner : Mr.M.Mohammed Riyaz

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

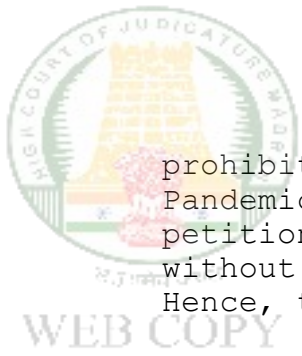
ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings as against the petitioner in Crime No.156 of 2020 pending on the file of the respondent.

2.The gist of the case is that on 02.04.2020, at about 14.30 hrs., despite the prohibitory order under Section 144 Cr.P.C. was in force, it was found that the petitioner came in his two wheeler bearing TN 20 CQ 5224. Hence, the respondent police secured him and registered a case in Crime No.156 of 2020 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 and 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 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 02.04.2020, 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.156 of 2020, dated 02.04.2020, on the file of the respondent Police is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, Crl.M.P.No. 12930 of 2021 stands closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vga/ab

To

1.The Sub Inspector of Police,
Thiruvallur Taluk Police Station,
Tiruvallur.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Mohammed Riyaz, Advocate SR. No.3775

CRL.O.P.No.23540 of 2021 and
Crl.M.P.No.12930 of 2021

PL (CO)
PR (08/02/2022)