



CrI.O.P.No.24600 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

CrI.O.P.No.24600 of 2022

Gabriel

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Sholavaram Police Station,
Tiruvallur District.
(Cr. No.1128 of 2022)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in connection with the impugned FIR in Cr. No.1128 of 2020 on the file of the respondent and quash the same.

For Petitioner : Ms.M.Lalitha

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



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ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records in connection with the impugned FIR in Cr. No.1128 of 2020 on the file of the respondent and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The learned counsel for the petitioner would submit that during the pandemic and while Section 144 Cr.P.C., order was in force, the petitioner was roaming around the area in his two wheeler bearing Registration No.TN-63-H-0793 Hence, FIR has been registered in Crime No.1128 of 2020 under sections 188, 268, 270 and 271 I.P.C., and section 51 of Disaster Management Act on 22.04.2020. According to the petitioner there is no intention on the part of the petitioner to spread the disease to anyone. Moreover, at the time of incident, the petitioner was not affected by Covid-19 or by any other communicable Diseases. Further Section 188 I.P.C., is a non-cognizable offence and the police has no right to register the case.



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4. The learned Additional Public Prosecutor produced the Government Order in G.O.(Ms) No.176, Home (Courts-IV) Department, dated 05.04.2022 with regard to the withdrawal of cases against the alleged violations of standard Covid 19 protocols.

5. As rightly pointed out by the learned counsel for the petitioner, in the light of the Judgment reported in *2018 (2) LW (Crl) 606 in Jeevanandham and others Vrs. State rep by Inspector of Police, Velayuthampalayam Police Station, Karur District and anr.*, the Police has no right to file a case under Section 188 IPC without getting proper permission from the concerned jurisdictional Magistrate. There is no material to show that the proper permission is obtained from the concerned Magistrate. Insofar as Section 268, 270 of IPC and 51 of Disaster Management Act, the petitioner was simply riding the two wheeler, which is not an offence of grievous nature and there is no evidence to show that the petitioner was affected by any of the epidemic diseases at the time of incident. Further the Government has dropped all the cases which have been registered during the pandemic period against the public vide G.O.(Ms)



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No.176, Home (Courts-IV) Department, dated 05.04.2022.

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6. Taking into account of all these aspects, this Court feels that the FIR in Crime No.1128 of 2020 is liable to be quashed.

7. In the result, this Criminal Original Petition is allowed and the FIR in Cr. No.1128 of 2020 on the file of the respondent police is hereby quashed.

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Index:yes/No

Speaking Order / Non speaking order



To

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1. The Inspector of Police,
Sholavaram Police Station,
Tiruvallur District.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.,

bkn

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