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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.24415 & 24419 of 2021
and
Crl.M.P.Nos.13461 &13462 of 2021

1. Ranjith Kumar

...Petitioner in Crl.O.P.No.24415 of 2021

2. Arun Kumar

...Petitioner in Crl.O.P.No.24419 of 2021

Vs.

State Rep.by its:
The Sub-Inspector of Police,
Nolambur Police Station,
Nolambur,
Chennai - 37.
(Crime Nos.1089 & 1338 of 2020)

...Respondent in both Crl.O.P.Nos

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for all the records and quash all the proceedings in Crime Nos.1089 & 1338 of 2020 now pending investigation on the file of the respondent. In both Crl.O.Ps.

For Petitioners : Mr.S.C.Pratheep Ashok kumar
For Respondent : Mr.E.Raj Thilak,
Government Advocate (Crl.side)

COMMON ORDER

These Criminal Original Petitions have been filed to call for all the records and quash all the proceedings in Crime Nos.1089 & 1338 of 2020 respectively, now pending investigation on the file of the respondent.

2.The case of the prosecution is that the petitioners had opened the Snacks Shop by violating the lockdown rules imposed by the Central and State Government during the pandemic period. It is the further case of the respondent that the petitioners



had also violated Section 144 IPC. It is therefore the respondent had registered the FIR in Crime Nos.1089 & 1338 of 2020 respectively, for offence under Sections 188, 269 IPC r/w 3 of Epidemic Diseases Act 1897 and Section 51 of the Disaster Management Act 2005.

3. The grievance of the petitioners is that the second petitioner completed his bachelor degree in Computer Science at SRM College and decided to prepare for TNPSC Group-1 Examinations and he is perusing his coaching at Sankar IAS Academy. The first petitioner completed his bachelor degree in Computer Applications at SRM College and his ambition is to pursue higher studies in UK. The first and second petitioners are brothers. The first petitioner had applied for passport on 30.10.2021. Thereafter, the Passport Authorities had sent a requisition for the police verification to the respondent on 08.11.2021, based on the request, the respondent police verified the profile of the petitioners and found criminal cases pending against the first and second petitioners in Crime Nos.1089 & 1338 of 2020 respectively, on the file of the respondent. The petitioners further submit that originally the petitioners' father is running the Snacks shop for more than 20 years and the their father was called to the police station to clarify about the banner containing the guidelines that has to be affixed at the entrance of the shop during the pandemic period. Due to their father's inconvenience, on behalf of their father, the petitioners went and on the insistence of the respondent police only, the petitioners affixed their signatures in the book kept by the respondent police. They further submitted that they had not violated any lockdown norms imposed by the Government of Tamil Nadu and prays to call for all the records and quash all the proceedings in Crime Nos.1089 & 1338 of 2020 respectively, now pending investigation on the file of the respondent..

4. The learned Additional Public Prosecutor submits that the petitioners had opened the Snacks Shop by violating the lockdown rules imposed by the Central and State Government during the pandemic period.

5. Considering the rival submissions and on a perusal of the materials, it is an admitted fact that no public lodged complaint and no public got affected by the petitioners' act. Surprisingly no public or independent witness examined by the prosecution, which causes serious doubt on the veracity of the complaint. Further, this Court in the case of "Jeevanandham and others Vs. State Rep. by Inspector of Police and another reported in (2018) 2 LW CrL. 606" had clearly held that the police officials are not empowered to register a case under Section 188 IPC and the same is barred under Section 195 Cr.P.C. There is no material to show that there was any promulgation of



prohibitory orders which was communicated to the public and there was any disobedience by the petitioner and the prosecution failed to show whether any trouble occurred. The respondent Police failed to follow the guidelines issued by this Court in Jeevanandham (Cited Supra). In several cases, this Court quashed the proceedings against the accused on similar ground.

6. In the result, the FIR in Crime Nos. 1089 & 1338 of 2020, on the file of the respondent is quashed. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Sub-Inspector of Police,
Nolambur Police Station,
Nolambur,
Chennai - 37.
(Crime Nos. 1089 & 1338 of 2020)

2. The Public Prosecutor,
High Court, Madras.

+2cc to Mr. S.C. Pratheep Ashok Kumar, Advocate, S.R.No. 1501

CRL.O.P.Nos. 24415 & 24419 of 2021

MT (CO)
KKV/04/02/2022