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CrI.O.P.No.27164 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

CrI.O.P.No.27164 of 2022 and
CrI.M.P.No.16685 of 2022

C.Ramesh

... Petitioner

Vs.

The State Represented by,
The Sub Inspector of Police,
Manali Police Station,
Chennai-600 088.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the FIR registered against the petitioner in Crime No.834 of 2021 dated 18.08.2021, on the file of the 1st respondent, the Sub Inspector of Police, Manali Police Station, Chennai.

For Petitioner : Mr.C.Balasubramaniam

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

ORDER

This Criminal Original Petition has been filed to quash the FIR registered against the petitioner in Crime No.834 of 2021 dated 18.08.2021, on the file of the 1st respondent Police.



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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., was in force, the petitioner was roaming around the area in his two wheeler bearing Registration No.TN-18-AS-8986 Hence, FIR has been registered in Crime No.834 of 2021 under sections 188 and 270 f I.P.C., and section 3 of the Epidemic Diseases Act, 1897 on 18.08.2021. According to the petitioner there is no intention on the part of the petitioner to spread the disease to another. 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.

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.



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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 270 of IPC and 3 of Epidemic Diseases Act, 1897, 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) No.176, Home (Courts-IV) Department, dated 05.04.2022.

6. Taking into account of all these aspects, this Court feels that the FIR in Crime No.834 of 2021 is liable to be quashed. Accordingly, the same is quashed.



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R.N.MANJULA,J.

vum

7. In the result, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petition is closed.

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vum

Index:yes/No

Speaking Order / Non speaking order

To

1. The Sub Inspector of Police,
Manali Police Station,
Chennai-600 088.

2. The Public Prosecutor,
Madras High Court,
Chennai.

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Crl.M.P.No.16685 of 2022