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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.26084 OF 2021

Srinath

... Petitioner/Accused

Vs.

State rep. by
The Inspector of Police,
Katpadi Police Station,
Vellore.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for records in FIR in Crime No.1358 of 2020 on the file of the respondent and consequently to quash the same.

For Petitioner : Mr.M.Ashwin Kumar

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

O R D E R

This Criminal Original Petition is filed to call for records in FIR in Crime No.1358 of 2020 on the file of the respondent and consequently to quash the same.

2.The case of the prosecution is that on 24.08.2020 around 20.10 hours, the petitioner was travelling in his bike bearing Registration No.TN 22 DJ 3049 near Katpadi Gudatham Junction road beyond the prescribed speed limit in violation of the lockdown rules imposed by the Government of Tamil Nadu. It is the further case of the respondent that the petitioner had also violated Section 144 IPC. It is therefore the respondent had registered the FIR in crime No.1358 of 2020 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 contention of the petitioners is that the petitioner is an Engineering graduate from Kingston Engineering College, Chittur. His ambition is to pursue higher studies in the field of Aerospace Engineering in United Kingdom. For which he had applied for passport on 08.08.2021. Thereafter the Passport Authority (The Regional Passport Office, Chennai) had sent a clarification notice dated 19.08.2021 to the petitioner and he is name in FIR Crime No.1358 of 2020, and pending against him on the file of the respondent police.

4.He further submitted that he was travelling alone and was not over speed as alleged in the FIR. He had not violated any lockdown norms imposed by the Government of Tamil Nadu. Aggrieved against which he had filed the above said petition to quash the FIR in Crime No.1358 of 2020 on the file of the respondent.

5.The learned Additional Public Prosecutor submits that on 24.08.2020 around 20.10 hours, the petitioner was travelling in his bike bearing Registration NO.TN 22 DJ 3049 near Katpadi Gudiatnam Junction Road beyond the prescribed speed limit and violated the lockdown rules imposed by the Government of Tamil Nadu.

6.Considering the rival submissions and on perusal of the materials it is admitted fact that no public lodged complaint and no public got affected by the petitioner while he was travelling. 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 CrI. 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.

7.In the result, the FIR in Crime No.1358 of 2020 on the file of the respondent, is hereby quashed against the petitioner.



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8. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Katpadi Police Station,
Vellore.
2. The Public Prosecutor,
High Court,
Madras.

+1cc to M/s.M.Ashwin Kumar, Advocate, S.R.No.734

Crl.O.P.No.26084 of 2021

GPL(CO)
RLP(27/01/2022)