



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.26064 of 2021 and
Crl.M.P.No.14454 of 2021

Sudhakar

... Petitioner

Versus

The Inspector of Police
Thiruvallur Town Police Station,
Thiruvallur-602001.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating in Crime No.553/2021, on the file of the Respondent Police and quash the same.

For Petitioner : Mr.V.Achuthanandan

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

O R D E R

The petitioner, who is an accused in Crime No.553 of 2021 for the offence under Sections 188 and 269 IPC, U/S 51 of Disaster Management Act 2005 and U/S 3 of Epidemic Diseases Act, 1897 has filed this quash petition.

2. The gist of the case is that on 31.05.2021, at about 9.00 am, despite the prohibitory order under Section 144 Cr.P.C. was in force, the petitioner was unnecessarily roaming on the streets in his two wheeler bearing Registration No.TN-20-CD-6112. Hence, the respondent Police registered a case in Crime No.553 of 2021 for the offence under Sections 188 and 269 IPC, U/S 51 of Disaster Management Act 2005 and U/S 3 of Epidemic Diseases Act, 1897 IPC, as against which, the present quash petition is filed.



3. The contention of the petitioner is that he is an engineering graduate and was working in "ChessBerg" at Thiruvallur District from May 2020 and his nature of work is the kitchen staff cum delivery boy. It is further stated that during the lockdown due to Covid-2019, pandemic, the petitioner was delivering the Pizza, with proper protocol issued by the Government of Tamil Nadu by availing E-Pass and on 31.05.2021, while the petitioner was delivering Pizza, the Respondent police stopped the petitioner near Thiruvallur Oil Mill and enquired him, for which the petitioner has stated that he delivers Pizza by showing his ID card and E-Pass. Despite the same, the respondent police has registered this false case against the petitioner.

4. The learned counsel for the petitioner submitted that the petitioner is a law abiding citizen. He went out of his house only to deliver Pizza. 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, hence, the FIR is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the government had implemented prohibitory order under Section 144 Cr.P.C. due to Corona Pandemic. The respondent police also warned the petitioner not to roam in the streets. In spite of the warning, he was roaming in the streets and involved in the spreading of Corona virus. Hence, the complaint came to be registered against the petitioner.

6. This Court considered the rival submissions and perused the materials available on record.

7. On a perusal of records and submissions of both sides, it is seen that on 31.05.2021, the petitioner went out of his house only to carry on his work of delivering Pizza. While prohibiting order is 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 needs and as such, there is no possibility to believe about the spread of disease. 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.



8. In the result, the impugned order in Crime No.553 of 2021, dated 31.05.2021 on the file of the respondent is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

arr
To

1. The Inspector of Police,
Thiruvallur Town Police Station,
Thiruvallur.

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.26064 of 2021

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srg 10/02/2022