



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P(MD)No.175 of 2022

and

CrI.M.P. (MD)No.116 of 2022

Maheshwaran

... Petitioner/Sole Accused

Vs

1.State rep. by its
Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
Crime No.48 of 2020

...1st Respondent/Complainant

2.A.Kannan

Sub Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.

...2nd Respondents/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the entire records pertaining to FIR in Crime No.48 of 2020 for the alleged offences under Sections 188 and 270 of IPC on the file of the Inspector of Police, Ottapidaram Police Station, Thoothukudi District and quash the same as illegal.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.A.Albert James
Government Advocate (crl.)

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. The case of the prosecution is that on 08.04.2020, the petitioner was found roaming around in violation of the lockdown restrictions. Hence, Crime No.48 of 2020 was registered for the offences under Section 188 and 270 of IPC. It is well settled that the police could not have straight away registered an FIR for an offence under Section 188 of IPC. The petitioner was not suffering from infectious disease. Nor he contributed to its spread. Therefore, Section 270 of IPC also could not have been invoked. The very registration of the impugned FIR is very bad in law. It stands



quashed. This Criminal Original Petition is allowed.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
- 2.The Sub Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.BALAMURUGAN, Advocate (SR-810[F] dated 07/01/2022)

Cr1.O.P (MD)No.175 of 2022
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NSN(CO)
KB(24.01.2022) 2P 5C