



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.1224 of 2022
and
Crl.M.P. (MD)No.893 of 2022

Saran ... Petitioner/ Accused
Vs.

The Sub Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.
(Crime No.159 of 2021) ... Respondent/ Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the FIR No.159 of 2021 on the file of the Sub Inspector of Police, Anjugramam Police Station and quash the same as illegal.

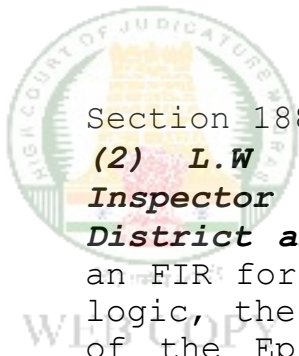
For Petitioner : Mr.V.Balajirajaram
For Respondent : Mr.B.Thanga Aravindh,
Govt. Advocate (Crl. Side).

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent.

2.The petitioner is shown as accused in Crime No.159 of 2021 registered on the file of the respondent for the offences under Sections 269 and 270 of IPC and Section 3 of Epidemic Diseases Act, 1897.

3.The case of the prosecution is that on 21.05.2021 at around 09.30 pm, the petitioner was found roaming in public in violation lockdown restrictions. It is not the case of the respondent police that the petitioner was suffering from any infectious disease or that he contributed to its spread. Therefore, the offences under Section 269 and 270 of IPC could not have been invoked. As regards the offence under Section 3 of the Epidemic Diseases Act, 1897, it can be invoked by following the procedure that is applicable to



Section 188 of IPC. It has been held in the decision report in **2018 (2) L.W (Crl.)606 (Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another)** that the police on their own cannot register an FIR for the offence under Section 188 of IPC. Applying the same logic, the respondent could not have straightaway invoked Section 3 of the Epidemic Diseases Act, 1897. Looked at from angle, the registration of the FIR does not appear to be appropriate. The continuance of the impugned prosecution is not warranted. It stands quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ias

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 Sub Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.BALAJIRAJARAM, Advocate (SR-2643[F] dated 27/01/2022)

Crl.O.P(MD)No.1224 of 2022
25.01.2022

RD(07.02.2022) 2P 4C