



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.1557 of 2022

and

Crl.M.P. (MD) No.1127 of 2022

Syed Eshack

... Petitioner/Accused No.3

Vs.

1.The State represented by
The Inspector of Police,
South Gate Police Station,
Madurai District.
(Crime No.391 of 2021)

...Respondent No.1 /Complainant

2.Somu,
Sub Inspector of Police,
South Gate Police Station,
Madurai District.

...Respondent No.2/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned First Information Report in Crime No.391 of 2021 on the file of the 1st respondent police station and quash the same as illegal as against the petitioner is concerned.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.M.Sakthi Kumar,
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 respondents.

2.The petitioner is figuring as an accused in Crime No.391 of 2021 registered on the file of the first respondent for the offences under Sections 143, 341, 291 and 269 of IPC and Section 3 of Epidemic Diseases Act, 1897.

3.According to the prosecution, on 24.09.2021 the accused assembled in public in violation of the lockdown restrictions and without getting any prior permission. The accused also did not adhere to covid appropriate behaviour. That led to the registration of the impugned FIR.



4.It is not the case of the prosecution that the accused were suffering from any infectious disease or contributed to its spread. Therefore, the offence under Section 269 of IPC could not have been invoked. The FIR could not have been straightaway registered by the police on their own for the offence under Section 3 of Epidemic Diseases Act, 1897, since the procedure contemplated for registering a case for the offence under Section 188 of IPC will have to be followed. Section 291 of IPC also cannot be pressed into service as it runs counter to the order dated 09.11.2021 made in Crl.O.P.(MD) No.16135 of 2021 (Selvam and two others v. State). The accused were protesting against the farm-laws. The accused have after all taken up a public cause. Therefore the assembly cannot be characterized as unlawful assembly. The accused did not indulge in any act of violence and no adverse consequence ensued. Therefore, continuance of the impugned FIR is not warranted. In this view of the matter, the impugned FIR is quashed and the criminal original petition is allowed. The benefit of this order will enure in favour of the non-petitioning accused also. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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,
South Gate Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.1557 of 2022
28.01.2022

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