



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.2461 of 2022
and
Crl.M.P(MD)No.1811 of 2022

Asbert Nuwton @ Newton

... Petitioner/
Sole Accused

Vs.

1.The State represented by
The Sub Inspector of Police,
Ethamozhi Police Station,
Kanyakumari District.
(In Crime No.47 of 2020)

... 1st Respondent/
Complainant

2.Mohanakumar,
The Sub Inspector of Police,
Ethamozhi Police Station,
Kanniyakumari District.

... 2nd Respondent/
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.47 of 2020 on the file of the Respondent No.I, dated 30.03.2020 and quash the same in respect of the petitioner as illegal.

For Petitioner : Mr.R.Venkatesan
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side) for R.1

ORDER

The learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

2. The case of the prosecution is that on 30.03.2020, the petitioner is roaming in a two wheeler in violation of the lock down restrictions. Hence, the FIR was registered for the offences under Sections 188 and 216 IPC. The respondent could not have



registered an FIR for the offence under Section 188 IPC as it runs counter to the ratio laid down in **2018 2 Law Weekly Crl.606 (Jeevanandham and others Vs. State)**. Even according to the prosecution, the accused was not suffering from any infectious disease. Therefore, Section 269 IPC also could not have been invoked. The impugned FIR is not clearly maintainable. It stands quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Mga

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,
Ethamozhi Police Station,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.2461 of 2022

04.02.2022

USK/23.02.2022/2P/3C