



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P(MD)No.20892 of 2021

and

CrI.M.P. (MD)No.12003 of 2021

Mugesh Kanna

... Petitioner

Vs

State rep. by
The Sub Inspector of Police,
Kurumbur Police Station,
Thoothukudi District.
(Crime No.103 of 2020)

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in FIR in Cr.No.103 of 2020 dated 19.04.2020 pending on the file of the respondent police as against the petitioner and quash the same.

For Petitioner	: Mr.M.Pandian
For Respondent	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor

ORDER

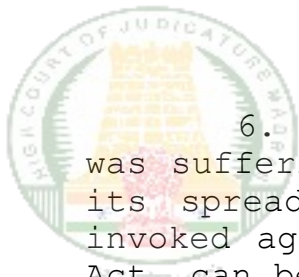
Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2. The case of the prosecution is that on 19.04.2020, the petitioner was found roaming around in Thiruchendur Town in his two wheeler. Hence, Crime No.103 of 2020 was registered for the offences under Section 269 of IPC and Section 3 of Epidemic Disease Act, 1897. To quash the said FIR, this Criminal Original Petition has been filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned FIR.

4. The learned Additional Public Prosecutor submitted that no case for quashing has been made out.

5. I carefully considered the rival contentions and went through the materials on record.



6. It is not the case of the prosecution that the petitioner was suffering from any infectious disease or that he contributed to its spread. Therefore, Section 269 of IPC could not have been invoked against the petitioner. Section 3 of the Epidemic Disease Act can be prosecuted as if an offence under Section 188 of IPC has been committed. It has already been held that the police cannot straight away register an FIR for the offence under Section 188 of IPC. Therefore, the said provision also could not have been invoked. In any event, since no adverse consequence ensued, the continuation of the prosecution is not warranted. The impugned FIR is quashed.

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

Sd/-

Assistant Registrar (T&P)

// True Copy //

05/01/2022

Sub Assistant Registrar(CS IV)

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

1CC TO MR. M.PANDIAN, ADVOCATE SR:108

GC

05/01/2022 - 2P/4C

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