



CrI.O.P.(MD).No.2329 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

CrI.O.P.(MD).No.2329 of 2023

and

CrI.M.P.(MD)Nos.2102 and 2105 of 2023

Rajasekar @ Rajasekaran

... Petitioners/Accused No.4

Vs.

State Represented by,
The Inspector of Police,
Sessions Court Police Station,
Trichy.

(Crime No.527 of 2021)

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.715 of 2022 on the file of the Learned Judicial Magistrate, No.II, Trichy and quash the same in respect of the Petitioner is concerned.

For Petitioners : Mr.Ebenezer.T.A.

For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor.



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ORDER

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This Criminal Original Petition has been filed to quash the charge sheet filed in C.C.No.715 of 2022 on the file of the Learned Judicial Magistrate, No.II, Trichy, in respect of the Petitioner is concerned.

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

3.The learned counsel for the petitioner would submit that FIR was registered against this petitioner in Crime No.527 of 2021 for the offences punishable under Sections 143, 188, 269, 270 of IPC, in which the petitioner is arrayed as fourth accused. Thereafter, after completing the investigation, final report was filed before the learned Judicial magistrate No.II, Trichy, for the offences punishable under Sections 143, 188, 269, 270 IPC r/w. 41(6)(a) of TNCP Act and Section 3 of Epidemic Diseases Act 1897 r/w 134, 135 Tamil Nadu Public Health Act, 1939 nd 51(B) of Disaster Management Act -2005, which was taken cognizance in C.C.No.715 of 2022. Seeking quashment of the same, this petition has been filed.



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4.This petition is filed mainly on the ground that Section 188 IPC is non-cognizable offence and the police has no right to register the case and investigate.

5.In the judgment reported in **2018(2) L.W (Crl.) 606** In ***Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another***), it has been held that the police has no right to file a case under Section 188 IPC and to investigate the same without getting proper permission from the concerned jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the respondent has no right to register the case and to investigate the matter. A detailed guideline has been issued by this Court in the judgment cited supra. On this aspect, Section 188 IPC will not stand against the petitioner.

6.Considering the nature of allegations and the offences involved



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in this case, I am of the considered view that roaming in the road without any reason should not be a reason for spoiling the future of the petitioner.

Moreover, the Government is also decided to drop all these cases, which have been registered during the pandemic period against the public. Taking all these aspects into account, I am of the considered view that the proceedings in C.C.No.715 of 2022 on the file of the Learned Judicial Magistrate, No.II, Trichy is liable to be quashed and accordingly, the same is quashed.

7.In the result, this petition is allowed. Consequently, connected miscellaneous petition is closed.

08.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1.The Judicial Magistrate No.II, Trichy.

2.The Inspector of Police,
Sessions Court Police Station,
Trichy.

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3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J.

TM

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and
Crl.M.P.(MD)Nos.2102,2105 of 2023

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