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Crl.O.P.(MD)No.2705 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.2705 of 2023

Ragamath Ali

... Petitioner

Vs.

1. The Inspector of Police,
Kumbakonam East Police Station,
Thanjavur District.
(In Crime No.138/2022).

2. E.Natarajan
Special Sub Inspector of Police,
Kumbakonam East Police Station,
Thanjavur District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of impugned First Information Report in Crime No.138 of 2021 on the file of the Respondent No.1 police station and quash the same as illegal as against the petitioner.

For Petitioner : Mr.A.Mohamed Riyaz

For Respondents : Mr.SS.Madhavan
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition is filed seeking quashment of FIR in Crime No.138 of 2021 pending on the file of the first respondent/Inspector of Police, Kumbakonam East Police Station, Thanjavur District.

2. It is the case of the prosecution that the petitioner and others assembled unlawfully for a demonstration without following the code and norms of the Local Body election and the Covid-19 protocols thereby a case was registered on 01.02.2021 against the petitioner in Crime No.138 of 2021 for the offences punishable under Sections 143, 188, 341, 269 and 270 of IPC and the petitioner/A1 and others were arrested.

3. It is submitted by learned counsel for the petitioner that on 01.02.2021, the petitioners assembled for a demonstration after getting proper permission from the concerned authorities and there is nothing on record to show that the petitioner and others were found to be violating either election code or Covid-19 norms. He further contended that as per



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Section 468(b) of Cr.P.C., the first respondent police failed to file charge sheet before within one year from the date of offence i.e. 01.02.2021 and thereby, there is a bar over taking cognizance of the offence.

4. Heard both sides and perused the record.

5. During pandemic period, various directions were passed from time to time by the various authorities including promulgation of prohibiting order under Section 144 of Cr.P.C. with an intention to see that Covid-19 is not spread among general people. One of such guidelines was to maintain social distancing and cover the nose and mouth with proper masks.

6. Section 468 of I.P.C reads as under:

468. Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub-section

(2), after the expiry of the period of



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limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

7. Considering the time limit prescribed under Section 468 of Cr.P.C., it is to be examined as to whether the respondents police can file charge sheet for the offence against the petitioner. The FIR is registered for the offence under Section 143 I.P.C. the punishment for which is six months, for the offence under Section 341 of I.P.C. the punishment for which is one month, for the offence under Section 188 of I.P.C. The



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punishment for which is one month and the punishment for the offence under Section 269 I.P.C is six months.

8. As per Section 468 of Cr.P.C., the charge sheet should have been filed within three years from the date of occurrence. In the case on hand, two years and six months have already been lapsed and the Police have not filed the charge sheet in respect of offences under Sections 143, 341, 188, 269 of IPC thereby police cannot file charge sheet for the said offences.

9. As per Section 270 of I.P.C., whoever malignantly does an act which he knows that his act likely to spread the infection of any disease dangerous to life shall be punished which extended to two years or fine with both. According to prosecution on account of their negligence, the petitioner and others were likely to spread the Covid-19 infection. In order to consider the offence under Section 270 of I.P.C, there shall be material before the Court that the petitioner and others were suffering from infectious disease dangerous to life. As per the FIR, there is no record or allegation that he was suffering from infectious disease thereby



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offences Sections 269 of IPC and 270 will not get attract.

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10. In view of the discussion made above, this Criminal Original
Petition is allowed and the FIR in Crime No.138 of 2021 dated
01.02.2021 is quashed.

16.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN



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WEB COPY To

1. The Inspector of Police,
Kumbakonam East Police Station,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

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Dated: 16.08.2023