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Crl.O.P.(MD)No.7669 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.7669 of 2023
and Crl.M.P.(MD).No.6691 of 2023

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... Petitioner/Accused No.1

Vs.

1.The State through
The Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District. ... 1st Respondent/Complainant

2.K.gandhimathi,
Sub Inspector of Police,
Thoothukudi Sought Police Station,
Thoothukudi District. ... 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records connected to FIR in Crime No. 555/2020 on the file of the R1 and Quash the same as illegal as against the petitioner.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.B.Nambiselvan for R1
Additional Public Prosecutor



ORDER

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This petition is filed seeking quashment of Crime No.555 of 2020 on the file of the first respondent.

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

3.The case of the petitioner is that on 04.08.2020 at about 11.15 hours, the petitioner herein was roaming in the road without wearing mask at the time of prohibition due to COVID-19 pandemic. Hence, a case in Crime No.555 of 2020 for the offences punishable under Section 143, 188 and 269 has been registered. The present petition is filed to quash the First Information Report in Crime No.555 of 2020.

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.Heard both sides.

6.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.

7.Considering the nature of allegations and the offences involved 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 has also dropped 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 First Information Report in Crime No.555 of 2020 on the file of the respondent is liable to be quashed and accordingly, the same is quashed.



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

25.04.2023

Index : Yes/No
Internet : Yes/No
TM

To

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



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G.ILANGOVAN. J.

TM

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