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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.01.2023

Delivered on : 19.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.22035 of 2022

and

Crl.M.P.(MD)No.15534 of 2022

1.B.Mugesh

2.M.Udhayarajan

3.C.Mahendran

4.M.Deivendran

5.V.Siva Perumal

... Petitioners/
Accused 1to5

vs.

1.The Sub Inspector of Police,
Moolakaraipatty Police Station,
Moolakaraipatti,
Tirunelveli,
Tirunelveli District.
(Crime No.118 of 2021)

...1st Respondent/
Complainant

2.A.Alwar

...2nd Respondent/
Defacto
Complainant



PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records in S.T.C.No.423 of 2022 on the file of the Judicial Magistrate Court, Nanguneri, Tirunelveli District and quash the same.

For Petitioners : Mr.R.Sakthivel

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records in S.T.C.No.423 of 2022 on the file of the Judicial Magistrate Court, Nanguneri, Tirunelveli District and quash the same.

2. The case of the prosecution is that on 02.05.2021, when Section 144 Cr.P.C. was in force, at about 11.30 a.m. the petitioners came out without any proper reason and hence, case in Crime No.118 of 2021 came to be registered on the file of the first respondent for the offences under Sections 269 and 270 IPC.

3. The petitioners' case is that they have no intention to spread the disease to another, that they simply came out for purchasing groceries in the time, which was already fixed by the Government and that they have



maintained the social distance and each of the petitioners have also wear face mask and followed the Covid-19 protocol.

4. The learned counsel appearing for the petitioners would submit that the Government has already withdrawn Covid-19 violation cases and necessary directions have already been issued to the Police Department, but without taking note of the same, the first respondent has filed the final report. He would further submit that the petitioners are students and if the case is permitted to continue, the same would affect their future.

5. The learned counsel appearing for the petitioners has relied on the decision of this Court in Crl.O.P.(MD)No.6270 of 2022 dated 11.04.2022, wherein, the decision in ***Prakash Vs. The Inspector of Police, Samayanallur Police Station and other*** in Crl.O.P.(MD)No.8657 of 2021 was referred and this Court, by giving a finding that it is a trivial in nature and that the petitioners have not intentionally done any act to spread the disease, has quashed the proceedings and it is necessary to refer the following passage,

“12. In the light of the above definition when we look into the final report, we can easily say that it cannot be termed as unlawful assembly. Similarly for



attracting offences under Sections 143 and 270 IPC also, there are no materials to show that the petitioners were also affected by Covid-19 virus and because of their assembly virus spread to others. Since in the absence of any such materials on record, the offence under Sections 143 and 270 IPC are not attracted.”

6. Moreover, the learned counsel appearing for the petitioners has produced the copy of the G.O. in G.O.(Ms)No.176 dated 05.04.2022, wherein, the Government ordered for withdrawal of the cases registered against the alleged violators of the standard Covid-19 restrictions and in the annexure attached to the said G.O., the South Zone Tirunelveli finds place.

7. Considering the above facts and circumstances and the nature of the charges levelled against the petitioners and also taking note of the fact that the petitioners have come out for purchasing groceries and also the submissions made by the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor appearing for the first respondent that the Government has already issued a G.O. for withdrawal of the cases, this Court is of the considered view that the final report in S.T.C.No.423 of 2022 is liable to be quashed.



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8. In the result, this Criminal Original Petition stands allowed and the impugned proceedings in S.T.C.No.423 of 2022 on the file of the Court of the Judicial Magistrate, Nanguneri, Tirunelveli District is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

19.01.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
csm

To

- 1.The Judicial Magistrate,
Nanguneri, Tirunelveli District.
- 2.The Sub Inspector of Police,
Moolakaraipatty Police Station,
Moolakaraipatti,
Tirunelveli,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-delivery order made in
Crl.O.P.(MD)No.22035 of 2022
and
Crl.M.P.(MD)No.15534 of 2022

Dated : 19.01.2023