

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.03.2015

CORAM:

THE HONOURABLE MS. JUSTICE R. MALA

Cr.R.C.Nos.835,868 to 872 of 2014

Orders reserved on:05.03.2015

Orders pronounced on: 12.03.2015

The State
represented by CBI
ACB, Chennai.

...Petitioner/Complainant in all CrI.R.Cs.

v.

Sri Balaji Vidyapeeth Deemed University
represented by Sri.M.K.Rajagopalan
No.34, ABM Avenue
Raja Annamalaipuram
Chennai-28.

...Respondent/A2 in CrI.R.C.No.835 of 2014

Dr.Shivamurthy

...Respondent/A9 in CrI.R.C.No.868 of 2014

Dr.D.R.Gunasekaran

...Respondent/A5 in CrI.R.C.No.869 of 2014

Dr.N.V.Ramana Reddy
Dr.V.Ramana Reddy
Dr.Jhancy Lakshmi

...Respondents/A6 to A8 in
CrI.R.C.No.870 of 2015

Dr.James Gnanadass

...Respondent/A4 in
CrI.R.C.No.871 of 2014

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1.Mahathma Gandhi Medical College and
Research Institute represented by
M.K.Rajagopalan, Chairman
Balaji Educational Trust, Pondy-Cuddalore
Main Road, Pillaiyarkuppam
Pondicherry.

2.Sri.M.K.Rajagopalan

...Respondents/A1 and A3 in
Crl.R.C.No.872 of 2014

Prayer:Criminal revisions filed under Section 397 read with 401 of
Cr.P.C., against the order dated 16.04.2014 in Crl.M.P.No.4307, 3990,
4051, 4050, 3988 and 3989 of 2013 in C.C.No.7 of 2013 on the file of
the Chief Judicial Magistrate, Pondicherry.

For Petitioner : Mr.K.Srinivasan
Spl. Public Prosecutor (CBI cases)

For Respondents : Mr.A.Ramesh, Senior counsel for
in Crl.R.C.Nos. Mr.C.Arunkumar
835 & 872/2014

For Respondents in : Mr.L.Swaminathan
Crl.R.C.Nos.868,
869 & 871/2014

For R1 and R2 : Mr.V.Gopinath, senior counsel for
in Crl.R.C.No.870/2014 Mr.V.Ramesh

For R3
in Crl.R.C.No.870/2014 : Mr.V.Purushothaman

C O M M O N O R D E R

These Criminal revisions arise out of the order dated 16.04.2014
in Crl.M.P.No.4307, 3990, 4051, 4050, 3988 and 3989 of 2013 in
C.C.No.7 of 2013 on the file of the Chief Judicial Magistrate,
Pondicherry, allowing the petitions filed under Section 239 Cr.P.C
and discharging A1 to A9.

2.For the sake of convenience, the respondents herein are
referred to as A1 to A9.

3.The case of the prosecution is as follows:

(i)On source information, the case has been registered in RC MA 1 2011 A 0008 and after investigation, charge sheet has been filed against the respondents herein, who are A1 to A9 for offences under Sections 120B read with 420, 468, 468 read with 471 IPC stating that A3 had entered into the conspiracy with all other accused for hiring the Doctors who are not the faculty members of the Medical College and submitted false MCI Declaration Forms by enclosing fabricated and false forged experience certificates and appointment orders and made them to appear as a regular faculties before the Medical Council India (MCI) and also made the said Doctors to appear before the MCI inspection team as if the Medical College was having the required faculty members with nil deficiencies for the purpose of obtaining permission for admissions 100 MBBS seats.

(ii)The second charge is that the third accused had submitted an application to the Ministry of Health and family welfare and Medical Council of India, Human Resource Development, New Delhi, the Managing Trustee of the Trust. Medical Council of India for enhancing the admissions from 100 to 150 seats in the said Medical College.

(iii)The third charge is that for getting Deemed University status to Sri Balaji Vidyapeeth/A2 and A3 had signed and submitted false applications to the Ministry of Human Resources Development, New Delhi and statutory inspections were held on 7th and 8th April 2006 for approval for Medical College and inspections were conducted by the Medical Council of India on 9th and 10th June 2006 for approval of Medical College for award of MBBS Degree to 100 students.

(iv) Based on the applications submitted by the Medical College for increasing the admission capacity from 100 to 150 students by enclosing the Demand Drafts as per norms and the statutory body namely the Medical Council of India had conducted the inspection on 22nd and 23rd December 2006 for the proposed additional intake of MBBS seats for the academic year 2007-2008 and that based on the report of the MCI, Ministry of Health and Family Welfare, Government of India had accorded permission for the increase in intake of students and that thereafter MCI had conducted inspections on 14th and 15th February 2008 for renewal of permission for admissions of increase in intake of 150 students for the academic year 2008-2009.

(v)Similar inspections were also conducted on 30th and 31st January 2009 for admissions of 150 students for the year 2009-2010 and the accused were made false declaration forms and submitted concocted appointment orders.

(vi)Thus, A1 to A9 conspired to cheat the MCI in establishing and enhancing the admission capacity of students from 100 to 150 to get medical seats in the first accused Medical College and thereby committed the aforesaid offences.

4. After filing charge sheet, A1 to A9 filed discharge applications stating as follows:

(i) More than 60 persons were mentioned in the charge sheet, but they have not been prosecuted. The pick and choose formula is unknown to law. The prosecution shall follow the principle of doctrine of parity as otherwise the whole proceedings are illegal and contrary to law.

(ii) Ingredients of Sections 420 and 471 IPC are not made out. Medical Council of India has not taken any action against them. There is no where in the charge that which of the document is forged, in what manner the document was forged and who forged.

(iii) As per Section 30 of the Medical Council Act, only enquiry alone has to be ordered by Medical Council of India.

5. The CBI has filed a detailed counter stating that investigation reveals that A1 to A3 along with other co-accused entered into the criminal conspiracy and in pursuance of the same, they with dishonest intention deliberately concealed with the MCI Inspectors the true facts about the actual faculty members employed in the accused Institute and Doctors, who were not regular employees of accused Institute. Thus, the accused persons dishonestly induced the Medical Council of India and Ministry of Health and Family Welfare, Government of India to grant permission to the accused Institute for admission of MBBS students. The oral and documentary evidence collected by the CBI prima facie reveals commission of offences by the accused which is sufficient for framing charges.

6. The trial Court after hearing both sides allowed the discharge applications filed by the accused persons and discharged the accused from the charges levelled against them, against which, the present revision petitions are preferred by the petitioner/CBI.

7. Learned Special Public Prosecutor (CBI cases)/revision petitioner has raised following points for consideration:

(i) The documents filed along with the charge sheet are sufficient to frame charges against the accused.

(ii) Medical Council of India conducts periodical inspections of the Medical Colleges prior to commencement of every academic session in order to ensure that the medical colleges maintain the standard and professionalism in the field of medical education and the Inspections further envisage the medical colleges to maintain these professional standard on perpetual grounds so as to impart quality training to the students. The renewal permissions were granted on the basis of these inspections conducted by the Medical Council of India. A1 to A5 with dishonest intention deliberately concealed with MCI

Inspectors the true facts about the actual faculty members employed in the institute and about the Doctors who were not regular employees under the first accused and thereby committed the aforesaid offences.

(iii) The trial Court has wrongly held that since Medical Council of India has not taken any action against the accused from 2006 and for the subsequent years also, the number of seats for the MBBS have been increased, and permission was granted for them to write examination, ingredients of Sections 420 and 471 IPC have not been made out.

(iv) Further the trial Court has wrongly held that there is no prima facie material to show that who forged the document, which document was forged and in what manner the document was forged, so ingredients of Section 468 read with 420 IPC have also not been made out.

(v) As per Section 30 of the Medical Council Act, the Council is not complying with any of the provision of the Act, the Central Government may refer the particulars of the complaint to a Commission of Enquiry. The trial Court wrongly held that no action was taken by the Central Government as against the Medical Council of India and consequently, no action could be established against the accused.

(vi) LW1 to LW13 have stated that the accused have filed the MCI declarations and experience certificates. But the trial Court failed to consider the same and erroneously held that they have not stated any where in their statements that these accused have deceived them and cheated the MCI and that the Management had deceived the Inspectors.

(vii) The F.I.R. was lodged against the accused Medical College Management and against MCI Inspectors and public servants alleging that the Accused Medical College Management with connivance of MCI inspectors and the unknown public servants have conspired together to cheat the Government of India. But the trial Court without considering the oral and documentary evidence, erroneously discharged the accused from the charges levelled against them. Therefore, he prayed for allowing these revision petitions.

8. Resisting the same, learned counsel for the respondents/A1 to A9 have raised the following points of consideration:

(i) On source information, the case has been registered and charge sheet has been filed against A1 to A9. Likewise, charge sheets were filed against one M/S. Melmaruvathur Adhi Parashakthi Institute of Medical Sciences and Research (MAPIMS) and others. They filed discharge applications before the trial Court, which were allowed, against which, CBI preferred revisions and the judgment was reported in (2014) 4 MLJ (Cr1) 279 (Additional Superintendent of Police, CBI,

Anti-Corruption Bureau, CBI/ACB, Chennai v. G.B.Anbalagan and others), wherein the learned Judge of this Court held that in view of the statutory provisions of the Medical Council Act which is a self contained Act and when there are specific provisions in the Act to deal with the misconduct committed by the Institution and if it submits fake/forged declaration forms, it would be improper to resort to Section 420 of IPC altogether ignoring those provisions. When a statute or the statutory body is not inclined to treat violation or lapses as an offence, no penal law can be invoked for the shortfalls in the faculty and the submission of false declaration forms.

(ii) Another judgment of this Court reported in (2014) 3 MLJ (Crl.) 646 (State represented by CBI/ACB, Chennai v. M.K.Rajagopalan and another), in which, third and fifth accused in this case namely, M.K.Rajagopalan and Dr.D.R.Gunasekaran are the parties and in that judgment, the learned Judge of this Court held that the criminal Prosecution of the Respondents with the allegations that the declaration forms submitted by the faculties contained false and misleading information as to the undertaking that they were full time faculties when they were not permanent staff is of no criminal consequence nor does it make out any prima facie criminal case against the Respondents/accused. The shortfall in faculties and the submission of fake/forged declaration forms is not considered to be 'cheating' according to the legislators in so far as the Medical Council of India and its procedures are concerned. When a statute or the statutory body is not inclined to treat violation or lapses as an offence, no penal law can be invoked for the shortfalls in the faculty and the submission of false declaration forms.

(iii) Learned counsel for the respondents have submitted that the second decision is squarely applicable to the facts of the present case. After investigation made by MCI, number of post graduate courses have been granted by MCI and medical seats, which were increased from 100 to 150, have now been enhanced to 250 seats and so far Medical Council of India have not taken any action. If really the accused persons have committed any violation of rules and regulations, number of seats shall not be enhanced. So the trial Court has considered all the aspects in proper perspective and rightly discharged the accused 1 to 9 from the charges levelled against them. Therefore, they prayed for dismissal of the revision petitions.

9. Considered the rival submissions made on both sides and perused the materials available on record.

10. The case of the prosecution is as follows:

The charges levelled against the accused is that Shri

M.K.Rajagopalan(A3), Chairman Mahathma Gandhi Medical College and Research Institute, Pondicherry representing A1 and A2, Dr.James Gnanadoss(A4), Dr.D.R.Gunasekaran(A5), the then Dean and Vice Chancellor of Sri Balaji Vidyapeeth (A2) conspired with Dr.N.V.Ramana Reddy (A6), Dr.V.Ramana Reddy (A7), Dr.Jhansi Lakshmi (A8) and Dr.Shivamurthy (A9) and had enclosed false, fabricated and forged experience certificates as if they are having the required experience as Assistant Professors to show them as associate professors and designated them to fill the requisite number of associate professors for the purpose of MCI inspection. Thus, A1 and A4 with A6 to A9 enclosed false, fabricated and forged certificates as if they have worked as assistant professors and submitted false MCI declaration forms to the Medical Council of India to show them as associate professors and thereby cheated the Medical Council of India and Government of India, Ministry of Health and Family Welfare for obtaining permission as mentioned above.

11.After investigation, CBI filed charge sheet, which read as follows:

"Charge No.1:

On the Inspection dated 7th and 8th April 2006 for admission of 100 students for the academic year 2006-2007. A1/Mahathma Gandhi Medical College and Research Institute, A3/Thiru.M.K.Rajagopalan and A4/Dr.James Gnanadoss falsified the number of regular faculty members and made the MCI Team to believe that the college only a short of 25 Senior/Junior Resident Doctors, which could not be acceptable by the Medical Council of India. A3 and A4 had secured the above mentioned Doctors knowing fully well that they were not regular teaching faculty of the medical college. Declaration forms were submitted in their names along with concocted appointment orders and previous experience certificates in order to prove the bonafide of the faculty Dr.N.V.Ramana Reddy (A6), Dr.V.Ramana Reddy(A7), Dr.James Gnanadoss (A4) had enclosed the false and fabricated experience certificates.

Charge No.2:

The Medical Council of India conducted Inspection on 9th and 10th June 2006 for the approval of Medical College for the award of MBBS Degree. During the inspection, the petitioners A6, A7, A8 produced false declaration forms and concocted appointment order and previous Experience Certificate before the MCI and thereby committed forgery and cheating the Medical Council of India. Hence they are liable to be prosecuted under Section 468, 471 and 420 read with 120B IPC.

Charge No.3:

During the inspection conducted on 22 and 23rd December 2006, for the proposed increase of MBBS seats from 100 to 150 for the academic year, produced false and fabricated certificates with regard to the experience as if they worked as Assistant Professor and it was countersigned in the MCI declaration form of two Doctors Dr.N.V.Ramana Reddy and V.Ramana Reddy and thereby they committed the offences under Sections 468, 471 and 420 read with 120B IPC.

Charge No.4:

On the inspection conducted by MCI on 14th and 15th February 2008 for admission of increased intake of 150 students for the academic year, the petitioners produced false experience certificate and made false declaration before the Medical Council of India and thereby committed cheating and forgery and so they are liable to be prosecuted for the offences under Sections 468, 471, 420 and 120B IPC.

Charge No.5:

During the inspection on 30th and 31st January 2009, for the admission of intake of 150 students for the academic year 2009-2010, the petitioners made false declaration forms and submitted concocted appointment order and experience certificate and so they are liable to be punished under Sections 468, 471, 420 and 120B IPC. "

12.Even though the trial Court has allowed the applications filed by the accused persons, this Court has to decide whether the impugned order passed by the trial Court is sustainable and whether there is any prima facie case made out for framing charges? The trial Court after hearing both sides came to the conclusion that there is no prima facie case for framing charges. Even though case has been registered against unknown officials of the Ministry of Health and Family Welfare, New Delhi and unknown officials of Ministry of Human Resources and Development, New Delhi and 13 named persons, charge sheet was filed only against nine persons.

13.On perusal of charge sheet, it reveals that in Annexure-B, it was mentioned as "unknown officials of the Ministry of Health and Family Welfare, New Delhi and unknown officials of Ministry of Human Resources and Development, New Delhi and 13 named persons" under the heading "Names and addresses of accused persons not sent up for trial". But CBI filed charge sheet only against nine persons. So the trial Court has rightly held that even though violation has allegedly committed by several persons and more than 60 persons were mentioned

in the charge sheet, the CBI has filed charge sheet only against nine persons by following pick and choose formula, which is unknown to law and the prosecution shall follow the principle of doctrine of parity as otherwise the whole proceedings are illegal and contrary to law. In such circumstances, no reason has been assigned by the prosecution as to why other persons that too named 13 persons have not been prosecuted. Furthermore, no one has given complaint for the alleged violation committed by the accused persons and only on source information, F.I.R. was registered, investigation has been done and charge sheet was filed.

14.It is pertinent to note that after investigation, for subsequent years also, respondents 1 and 2 increased the strength of the students in MBBS from 100 to 150 to 150 to 250 now and the Medical Council of India has also accorded permission for enhancement of number of post graduate courses also. In such circumstances, if the accused persons committed any violation of rules and regulations, the MCI will not permit them to enhance the strength of admission of the students and also will not permit them to open new post graduate courses.

15.Learned counsel for the accused to substantiate their arguments in respect of no prima facie case for framing charges, have relied upon the judgment of the Apex Court reported in (2012) 3 SCC 1183 (CBI, Hyderabad v. K.Narayana Rao), which finds place in page No.23 of the order passed by the trial Court, wherein the Apex Court held that it is also settled law that while exercising jurisdiction under Section 227 of the Code, the Magistrate should not make a roving enquiry in the pros and cons of the matter and weigh the evidence as if he was conducting a trial. This provision was introduced in the Code to avoid wastage of public time and to save the accused from unavoidable harassment and expenditure.

16.Now this Court has to consider whether any prima facie case has been made out for framing charge against the accused under Sections 120B read with 420, 468, 468 read with 471 IPC? There is no material was placed before this Court to prove that the ingredients of Sections 120B read with 420, 468 and 468 read with 471 IPC prima facie made out and to prove any violation of rules under Section 30 of Medical Council Act, which will fascinate criminal liability on the accused. So it is appropriate to incorporate Section 30 of Medical Council Act, which read as follows:

"30. COMMISSION OF INQUIRY

1. Whenever it is made to appear to the Central Government that the Council is not complying with any

of the provisions of this Act, the Central Government may refer the particulars of the complaint to a Commission of Inquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being a Judge of a High Court and one by the Council, and such Commission shall proceed to inquire in a summary manner and to report to the Central Government as to the truth of the matters charged in the complaint, and in case of any charge of default or of improper action being found by the commission to have been established, the Commission shall recommend the remedies, if any, which are in its opinion necessary.

2. The Central Government may require the Council to adopt the remedies so recommended within such time as, having regard to the report of the Commission, it may think fit, and if the Council fails to comply with any such requirement, the Central Government may amend the regulations of the Council, or make such provision or order or take such other steps as may seem necessary to give effect to the recommendations of the Commission.

3. A Commission of inquiry shall have power to administer oaths, to enforce the attendance of witnesses and the production of documents, and shall have all such other necessary powers for the purpose of any inquiry conducted by it as are exercised by a Civil Court under the Code of Civil Procedure, 1908."

17. On going through the impugned order passed by the trial Court, the trial Court examined the materials placed on record on threadbare after referring to the statements recorded from various witnesses and came to the correct conclusion that no material was placed for framing charges under Sections 120B read with 420, 468 and 468 read with 471 IPC. Further, the trial Court has rightly held that as per Section 30 of the Medical Council Act, if there is any violation of rules and regulations, the Medical Council of India has taken action, but in the case on hand, Medical Council of India has not taken any action against the accused.

18. At this juncture, it is appropriate to consider the following decisions of this Court:

(i) In (2014) 4 MLJ (Crl) 279 (Additional Superintendent of Police, CBI, Anti-Corruption Bureau, CBI/ACB, Chennai v. G.B.Anbalagan and others), para-25, 32, 36, 38 to 40, it read as follows:

"25.In this case, the learned Special Judge should have considered that the similarly placed accused has been left out and the CBI has acted in a pick and choose manner. In the final report, except stating that the investigation had not revealed that Dr.Ketan Desai had any knowledge of the irregular faculty members in the strength of the College when the Medical Council of India accepted the report of the investigation team, it has not been pointed out that in what respect the said conclusion is arrived at. The statement is very vague in nature and it only shows the partisan attitude of the CBI. As the investigation has not been conducted fairly, such vitiated investigation would only lead to miscarriage of criminal justice.

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32.Even accepting the Prosecution case on its face value, it only reveals violation of regulation framed by the Medical Council of India and they cannot ex facie give rise to a criminal liability, as such misconduct may give rise to refusal of permission/recognition for two consecutive academic years.

33.
34.
35.

36.More importantly, Clause 8(3) of the Establishment of Medical College Regulations, 1999 contemplates penal action in case any Institute is found to have employed a teacher and submits a declaration form of such a teacher with fake/forged document. Sub clause (d) of clause 8(3) reads as under:-

"(d) Colleges which are found to have employed teachers with faked/ forged documents:

It is observed that any Institute is found to have employed a teacher with faked/forged documents and have submitted the declaration form of such a teacher, such an Institute will not be considered for renewal of

permission/recognition for award of MBBS Degree/processing applications for post graduate courses for two academic years i.e. that academic year and the next academic year also."

37. . . .

38. When a statute or the statutory body is not inclined to treat violation or lapses as an offence, no penal law can be invoked for the shortfalls in the faculty and the submission of false declaration forms.

39. In this context, it is relevant to refer to the law laid down by the Constitutional Bench of the Honourable Supreme Court in Dr. Preeti Srivatsva and another Vs. State of MP and others (1997-7-SCC-120) wherein the Honourable Supreme Court at paragraph 57 has concluded as follows:-

" In the case of Medical Council of India v. State of Karnataka & Ors. ([1998] 6 SCC 131) a bench of three judges of this Court has distinguished the observations made in Kumari Nivedita Jain (supra). It has also disagreed with Ajay Kumar Singh & Ors. v. State of Bihar & Ors (supra) and has come to the conclusion that the Medical Council Regulations have a statutory force and are mandatory. The Court was concerned with admissions to the M.B.B.S. Course and the Regulations framed by the Indian Medical Council relating to admission to the M.B.B.S. course. The Court took note of the observations in State of Kerala v. Kumari T.P. Roshana & Anr. ([1979] 1 SCC 572 at page 580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to post-graduate medical courses. We are in respectful agreement with this reasoning."

40. In view of the statutory provisions of the Medical Council Act which is a self contained Act and when there are specific provisions in the Act to deal with the misconduct committed by the Institution and if it submits fake/forged declaration forms, it would be improper to resort to Section 420 of IPC altogether ignoring those provisions."

(ii) In (2014) 3 MLJ (CrL.) 646 (State represented by CBI/ ACB, Chennai v. M.K.Rajagopalan and another), in para-33 and 35, it is held as follows:

"33. When a statute or the statutory body is not inclined to treat violation or lapses as an offence, no penal law can be invoked for the shortfalls in the faculty and the submission of false declaration forms.

35. In view of the statutory provisions of the Medical Council Act which is a self contained Act and when there are specific provisions in the Act to deal with the misconduct committed by the Institution and if it submits fake/forged declaration forms, it would be improper to resort to Section 420 of IPC altogether ignoring those provisions."

In the above decision, it was held that clause 8(3)(1) of the Establishment of Medical College Regulations, 1999, deals with the grant of permission to establish a New Medical College, which is given below:

"8(3)(1) The permission to establish a Medical College and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical College and expansion of the hospital facilities are completed and a formal recognition of the Medical College is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled.

The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

Provided that in respect of (a) Colleges in the stage upto II renewal (i.e. Admission of third batch):-

If it is observed during any regular inspection of the Institute that the deficiency of teaching faculty and/or residents is more than 30% and/or bed occupancy is <60% such an Institute will not be considered for renewal of permission in that academic year.

(d) Colleges which are found to have employed teachers with faked/ forged documents:-

If it is observed that any Institute is found to have employed a teacher with faked/forged documents and have submitted the declaration form of such a teacher, such an Institute will not be considered for renewal of permission/recognition for award of MBBS Degree / processing the applications for postgraduate courses for two academic years i.e. That academic year and the next academic year also.

However, the office of the Council shall ensure that such inspections are not carried out at least 3 days before upto 3 days after important religious and festival holidays declared by the Central/State Government.

(4) Failure to seek timely renewal of recognition as required in sub clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said Institute. (emphasis supplied)

Thus, it is clear that Medical Council of India is a body which has its own code of conduct to be followed while granting approval or recommending for renewal. The shortfall in faculties and submissions of fake/forged documents would only disentitle the Institution from getting renewal of permission. Also,

the errant medical Doctors would be dealt with accordingly by the Medical Council, whereby the names of defaulters can be removed from the State Medical Register, thus debarring them from engaging themselves in the profession. Also, the Medical Council of India Act provides for withdrawal of recognition granted to such College as per Section 19 of the Act. Nowhere it is stated either in Medical Council of India Act or the regulations that such violation would result in penal consequences. . . . "

The above two decisions came after the judgment was pronounced by the trial Court.

19. Considering the facts and circumstances of the case along with the decisions, I am of the view, the trial Court considering the rules and regulations and enactment of Medical Council of India, Establishment of Medical College Regulations, 1999, came to the correct conclusion that violation of any regulations formulated by MCI shall not create criminal liability against the accused and hence, ingredients of Sections 120B read with 420, 468, 468 read with 471 IPC have not been made out. Further, the trial Court has rightly come to the conclusion that act or omissions alleged to have been committed by the accused are only violations of regulations framed by the MCI as per Section 33 of the Indian Medical Council Act. They are not offences as per the procedure established by law and criminal liability shall not be fastened on the accused for those violations. The MCI which is the statutory body empowered to take action for violation of regulations and therefore, the prosecution before the Court of law shall not be maintainable. In my considered opinion, the trial Court examined the materials placed on record on threadbare after referring to the statements recorded from various witnesses and decided to discharge the accused persons, which is justified.

20. Under the above circumstances, I am of the view, no prima facie case has been made out for framing charges. The trial Court has rightly discharged the accused persons/respondents herein from the charges levelled against them by passing well reasoned order, which does not warrant any interference. Therefore, the revision petitions filed by the CBI deserve to be dismissed and they are hereby dismissed.

21.In fine, the Criminal Revision Petitions are dismissed by confirming the order dated 16.04.2014 in Crl.M.P.No.4307, 3990, 4051, 4050, 3988 and 3989 of 2013 in C.C.No.7 of 2013 on the file of the Chief Judicial Magistrate, Pondicherry.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

kj

To

1.CBI
Represented by The State
ACB, Chennai.

2.The Chief Judicial Magistrate,
Pondicherry.

3.The Special Public Prosecutor (CBI Cases)
High Court, Chennai.

2 CCs to Mr.A.Ramesh, Advocate SR.No. 13837

1 CC to Mr.K.Srinivasan, Advocate SR.No. 14371

3 CCs to Mr.C.Arunkumar, Advocate SR.No. 13950

2 CCs to Mr.L.Swaminathan, Advocate SR.No. 14015

Copy to
The Section Officer, Criminal Section,
High Court, Madras.

Crl.R.C.Nos.835,868 to 872 of 2014

AK (CO)
PSI (23.03.2015)