

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.11980 of 2016
&
Crl.M.P.No.6142 of 2016

1.Pandu

2.Jugal Kirshore ...Petitioners

-Versus-

1. State by
Inspector of Police,
J-1, Police Station,
Saidapet,
Chennai.

2. Dr.Panchanathan ...Respondents

Prayer: This petition is filed under Section 482 Cr.P.C. praying to call for the records relating to the case in Crime No.881 of 2011 on the file of the respondent police and to quash the said case.

For Petitioners : Mr.A.Natarajan,
Senior Counsel for
Ms.A.Madhumathi

For Respondents : Mr.C.Emalias, APP for R1

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ORDER

This original petition has been filed seeking to call for the records relating to the case in crime No.881 of 2011 on the file of the Inspector of Police, J1,Saidapet Police Station, Chennai, and to quash the case.

2. On the complaint lodged by Dr.Panchanathan, the respondent police have registered a case in Crime No.881 of 2011 on 10.04.2011 under Sections 269, 420 of IPC and r/w 15 (11)(iii) of The Indian Medical Council Act, 1956 against the petitioners herein quashing for which the petitioners are before this court.

3. It is the case of the de facto complainant that on 10.04.2011 around 10.45 a.m. when he along with other officials went to New Door No.54 [Old Door No.55], East Jones Road, Saidapet, Chennai, he saw the petitioners herein and also one Guna having a slip which found to contain writings "Acephen plus tablet 10 nos.; Samset plus 15 nos; and Erick plus 15 nos." It is the further case of the de facto complainant that the petitioners only had given the slip for a relative of Guna and therefore, the petitioners were illegally practising allopathy system of medicines. Hence, the complaint.

4. Heard Mr.A.Natarajan, the learned counsel for the petitioners and Mr.C.Emalias, the learned Additional Public Prosecutor appearing for the 1st respondent and also perused the records carefully.

5. The learned senior counsel appearing for the petitioner submitted that the slip prescribing allopathy medicines which was allegedly seized by the officials does not either contain name and style of any clinic or the name of the petitioners and that the medicines were not prescribed on a letter-pad but it was on a slip of ordinary paper. There is no prima facie material to initiate prosecution against the petitioners and that the FIR lacks minimum ingredients to constitute the offences alleged.

6. The learned Additional Public Prosecutor contended that this court earlier dismissed a batch of quash petition filed by quack doctors. He strongly opposed the quash petition.

7. This court gave its anxious consideration to the rival submissions.

8. The slip alleged to have been issued by the petitioners and said to have been sized by the complainant was not on the letter-pad showing the name and style of any clinic nor it contained the name of the petitioners. Except the stray averments that the slip was given by the petitioners for a relative of Guna, there is no other allegation against the petitioners that they were practising allopathy system of

medicines. Though the FIR is not an encyclopaedia of the prosecution case, yet, it should contain at least minimum ingredients disclosing the commission of a cognizable offences. The whole complaint proceeds on mere surmises. Admittedly, this court had dismissed a batch of quash petitions filed by quacks holding that FIRs in those case disclose the commission of cognizable offences. In the instant case, the complaint lacks minimum ingredients for making out a prima facie case against the petitioners to proceed further. The de facto complainant had not even obtained a statement from Guna to the effect that it was the petitioners who had given him the slip containing names of allopathy medicines. There is no material available to link the petitioners with the slip inasmuch as even according to the complainant the slip was seized from Guna. Thus, the prosecution against the petitioners is solely baseless and allowing the prosecution to proceed further against the petitioners would only be a wasteful exercise and would be abuse of process of Court. Therefore, this court has no hesitation to quash the proceedings as against the petitioners.

9. In the result, the criminal original petition is allowed and the case in Crime No.881 of 2011 on the file of the respondent police is quashed. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Inspector of Police,
J-1, Police Station,Saidapet,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Ms.A.Madhumathi, Advocate, S.R.No. 66316

Cr1.O.P.No.11980 of 2016

ALA (CO)PSI (02/12/2016)