

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.15105 of 2010
and M.P.No.1 of 2010

K.Sitharaman

.. Petitioner

vs.

State rep by
Inspector of Police
Sathyamangalam Police Station
Sathyamangalam
Erode District.

.. Respondent

Criminal Original Petition filed under Section 482
Cr.P.C. to call for the FIR in Cr.No.368 of 2010 on the file
of the respondent police, Sathyamangalam and quash the same.

For petitioner : Mr.T.T.Ravichandran
for Mr.S.Sathish Kumar

For respondent : Mr.C.Emalias,
Additional Public Prosecutor

RESERVED ON	PRONOUNCED ON
28.09.2016	10.2016

ORDER

This petition has been filed to call for the FIR in
Cr.No.368 of 2010 on the file of the respondent police,
Sathyamangalam and quash the same.

2. Heard the learned counsel for the petitioner and the
learned Additional Public Prosecutor appearing for the State.

3. On the complaint lodged by one Soundarrajan on
11.06.2010, the Inspector of Police, Sathyamangalam Police
Station, along with the Joint Director of Health Services and
Drug Inspector, inspected "Kongu Clinic" that is run by the
petitioner and found that the petitioner was practising
allopathy medicine. They effected seizure of allopathy
medicines and injection vials from the premises and a case in
Cr.No.368 of 2010 was registered on 11.06.2010 u/s 336 IPC r/w
15(2)(b) of the Indian Medical Council Act, 1956, against the
petitioner, challenging which the petitioner is before this

Court.

4. The learned counsel for the petitioner contended that the petitioner is a qualified Siddha practitioner and in support of that, he had enclosed a copy of the Siddha Registration Certificate bearing No.5003 dated 25.03.2006.

5. On a perusal of the Certificate, it is seen that the said Certificate has been issued by the Private Medical Practitioners' Association of India and not by the Siddha Council established under the Indian Medicine Central Council Act, 1970.

6. Learned counsel for the petitioner also relied upon the various circulars issued by the Central Government in support of his contention. The right of practitioners of Indian Medicine to dispense allopathy drugs and render allopathy treatment, came up for consideration before the Supreme Court in Civil Appeal No.336 of 2007 [Private Medical Practitioners' Association v. The State of Tamil Nadu & others] and by order dated 23.01.2007 (unreported), the Supreme Court dismissed the claim of the appellant with heavy costs of Rs.50,000/-, the relevant portion of which would read as under:

"For issuance of a writ of mandamus, a legal right has to vest in the person seeking the writ of mandamus. In the absence of any legal right, writ of mandamus cannot be sought for or granted by the Courts. Admittedly, members of the appellant-association are not qualified and registered with the State Medical Council. They cannot be permitted to practise either Modern Medicine or any other System of Medicine.

As per the Indian Medical Council Act, 1956 (Central Act 102 of 1956), no person can practise medicine without requisite qualification and registration with the concerned State Medical Council. Therefore, members of the Appellant-Association cannot either practise modern medicine or any other Indian System of Medicine.

It is not in doubt that only qualified and properly trained professionals are competent to man the medical treatment of the people. If the unqualified private practitioners like the members of the Appellant Association are allowed to treat the patients even for minor ailments, we are afraid, it may endanger the lives of the people.

Since successive writ petitions being filed by the appellants on the same cause of action seeking the same relief, which had been rejected earlier, has resulted in sheer wastage of the precious time of the Court, we dismiss the appeal with costs, which is quantified at Rs.50,000/- "

7. That apart, this Court cannot go into disputed questions of fact in a quash petition u/s 482 Cr.P.C. Further, when the FIR prima facie discloses the commission of a cognizable offence, the same cannot be quashed, in the light of the law laid down by the Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604].

In view of the above, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
Sathyamangalam Police Station
Sathyamangalam
Erode District.

2.The Public Prosecutor
High Court, Madras 600 104.

1 cc to Mr.S. Satishkumar, Advocate Sr.60393

CTR(CO)
Eu 30.11.16

CrI.O.P.No.15105 of 2010

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