

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 28.09.2016

PRONOUNCED ON: 06.10.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.28372, 29003 and 30174 of 2010
Crl.O.P. Nos.28994 & 28370 of 2010
Crl.O.P. No.178, 359, 361 and 430 of 2011
Crl.O.P. No.570,571,573,574 & 576 of 2011
Crl.O.P. No.1053, 1056, 1060, 1084,1093 to 1095 of 2011
Crl.O.P. No.1172, 1175, 1393 of 2011

Dr. Vijayakumar

Petitioner in Crl.O.P. No.28372 of 2010

vs.

1 State by
the Inspector of Police
E1 Mylapore Police Station
Chennai
(Crime No.635 of 2009)

2 The Inspector of Police – Team X
Central Crime Branch
Egmore
Chennai 600 008

3 Ganthimathi Respondents in Crl.O.P. No.28372 of 2010

Prayer in Crl.O.P. No. 28372 of 2010:

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records in Crime No.685 of 2009 on the file of the first respondent and quash the FIR.

For petitioner in
Crl.O.P. No.28372 of 2010 Mr. M. Balaji

For RR 1 & 2 in
Crl.O.P. No.28372 of 2010 Mr. C. Emalias
Addl. Public Prosecutor

COMMON ORDER

While all these Criminal Original Petitions, except Crl.O.P. No.30174 of 2010, are filed by one Dr. Vijayakumar seeking quashment of the prosecution launched against him in various crime numbers, Crl.O.P. No.30174 of 2010 is filed by Dr. Vijayakumar, his son and daughter-in-law, seeking quashment of the prosecution launched against them in Crime No.322 of 2010.

2 Since the issue involved in all these cases is one and the same, these Criminal Original Petitions are decided by this common order.

3 Vijayakumar (the accused/petitioner herein) appeared in a popular TV programme and claimed that he has extraordinary powers, including mystical powers, to cure all diseases. Being swayed by his words, the de facto complainants in all these cases, had approached him and had paid huge sums of money demanded by him for curing their

ailments. In this venture, in one of the cases, his daughter and son-in-law also had joined together and fleeced innocent victims in the course of giving them treatment. Later, when the victims realised that they were being taken for a ride, on the complaint of one of them, an FIR was registered and Vijayakumar was arrested. When the news of Vijayakumar's arrest got flashed in media, complaints started pouring in from various quarters and the police had to register individual FIRs challenging which, the present Criminal Original Petitions have been filed, as aforesaid.

4 The learned counsel for Vijayakumar submitted that Vijayakumar is a qualified Siddha doctor and that he cannot be prosecuted for an offence under the Medical Council of India Act for practising Allopathy as he did not practice Allopathy.

5 This Court gave its anxious consideration to the submissions made by the learned counsel on either side.

6 On a reading of the FIRs in each of the cases, this Court finds that each of the victims had approached Vijayakumar with serious ailments to whom he had promised that he has got divine powers to cure their illness and saying so, he had relieved them of huge sums of money. In one of the cases, viz., CrI.O.P. No.28370 of 2010, Vijayakumar has

told the de facto complainant therein that he is a representative of Goddess Meenakshi of Madurai and with the grace of that Goddess, he has been blessed with magical powers to cure diseases. When things stood thus, the Commissioner of Police had to intervene in the matter and transfer several cases from individual police stations to the file of the Central Crime Branch for thorough investigation. Since each of the FIRs discloses commission of fraud and cheating, the same cannot be quashed in the light of the law laid by the Supreme Court in *State of Haryana vs. Bhajan Lal* [1992 Supp (1) SCC 335].

7 The learned counsel for Vijayakumar submitted that in Crime Nos.664 and 680 of 2009, Vijayakumar had even returned money to the de facto complainants therein and therefore, prosecutions as against him and the co-accused have to be quashed.

8 In the considered opinion of this Court, return of money cannot efface the offence of fraud and cheating committed by quacks. The issue as to whether a native doctor can practise Allopathy treatment or any other system of medicine came up for consideration before the Supreme Court in *Private Medical Practitioners Association vs. State of Tamil Nadu and others* [(S.L.P. (Civil) Nos.1162 of 2004)], wherein, by order dated 23.01.2007, the Supreme Court held as under:

"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."

9 In view of the foregoing discussion, all these Criminal Original Petitions are liable to be dismissed and are accordingly dismissed. Connected M.Ps. are closed.

It is seen that the FIRs in these cases have been stayed in the year 2010 and 2011 and the matters are taken up for final hearing only now. Under such circumstances, the respondent police are directed to conduct investigation expeditiously.

06.10.2016

cad

P.N. PRAKASH, J.

cad

To

- 1 The Inspector of Police
E1 Mylapore Police Station
Chennai
- 2 The Inspector of Police – Team X
Central Crime Branch
Egmore, Chennai 600 008
- 3 The Public Prosecutor
Madras High Court
Chennai 600 104

Common Order in
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