

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.701 of 2016

F.Umar Sharieff, P.M.P. .. Petitioner

Vs.

State represented by
Inspector of Police
Omarabad police station
Ambur Taluk, Vellore District. .. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying for issuing a direction to the respondent not to harass the petitioner and not to interfere with the petitioner's Medical Practice in Allopathic System of Medicine which has been recognized by the Communication of Director General of Police, Ambur Police Station, Ambur Taluk, Vellore District.

For Petitioner : Ms.B.Keerthi

For Respondents : Mr.C.Emalias
Addl. Public Prosecutor

ORDER

The petitioner has come forward with this petition for issuing a direction to the respondent police not to harass him under the guise of enquiry.

2.Learned counsel for the petitioner submits that the respondent has called the petitioner for enquiry and harassed him without any reasons, stating that he violated the rules under the memorandum issued by the Central Government, the Health and Welfare Department. Hence, the petitioner has come forward with this petition for the above stated relief.

3.Resisting the same, learned Additional Public Prosecutor submits that the Central Government has issued a memorandum in the year 1979 and subsequently, on 11.06.1982,

the Central Government has sent another letter, in para-8, it was specifically mentioned that "the State Governments/Union Territories are requested to take action on the most immediate basis, to put an end to the problem of unqualified medical practitioners as well as to ensure that there is no fresh addition whatsoever of unqualified persons to the stream of the petitioner."

4.The learned Additional Public Prosecutor has drawn attention of this Court through the typed set of papers in CrI.O.P.No.28137 of 2015, in page No.32, order dated 15.06.1998, made in W.P.Nos.7402 of 1998 and batch, was filed. In para-8 of the said order, it was held that as per clause (3), "they shall not use the word "Dr.", as per clause (5), "they shall inform the Collector of the District the place in which they are practising or intend to practise with full address". Since the petitioner has been violated the rules, he was called for enquiry. In respect of one Annadurai is concerned, a case in Crime No.1164 of 2014, dated 19.09.2014 has been registered. It is further submitted that the respondent has not harassed the petitioner under the guise of enquiry. The petitioner may be directed to follow the guidelines issued by this Court in the above said writ petition. Hence, he prayed for dismissal of the petition.

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

6.According to the petitioner, he is practising modern Allopathic system of medicine. The petitioner in CrI.O.P.No.2159 of 2016 is concerned, he produced a certificate issued by the Tamil Nadu Board of Indian Medicine, Madras and he would submit that it is a registered Board.

7.Admittedly, this Court by an order dated 15.06.1998, held that the members of petitioner's Association and the petitioners therein are allowed to practice in modern medicine and on the field in which they have been rendering services to the public on their complying with certain conditions. One of the conditions is that they shall not use the word "Dr.". So it is appropriate to incorporate clause-(3) and (5) of the above said order, which read as follows:

"(3)They shall not use the word "Dr.", or similar words used in local language before or after their names, instead, after their names, they shall add the words "Unqualified Medical Practitioner" or its translated version in the local language. The said direction is absolutely necessary, since the illiterate public may not confuse them as "qualified doctors" and the public should know that they are of "distinct category". Name-board with the above details will be placed in a conspicuous place of the

building in which they intend to practise or are practising.

(5) They shall inform the Collector of the District the place in which they are practising or intend to practise with full address and the field in which they have experience. They shall not practise in any other place except with intimation to the District Collector, which shall be sent by registered post acknowledgement due."

8. Considering the aforesaid circumstances of the case, except one Annadurai, no case has been registered against the petitioner and others. So it is appropriate to consider the argument advanced by the learned Additional Public Prosecutor that without following guidelines issued by this Court, the petitioner is practising. So the petitioner is directed to follow the guidelines issued by this Court in W.P.Nos.7402 of 1998 and batch, dated 15.06.1998. If the petitioner would be violated any conditions, it is left open to the respondent to take appropriate action in accordance with law, but they shall not harass him under the guise of enquiry. Therefore, the respondent is directed to not to harass the petitioner under the guise of enquiry, but let the police investigate into the matter in accordance with law and the mandates as found set out in D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610. If really, the police want to interrogate, it is open for the police to issue summons to the petitioner. Thereupon, the petitioner shall appear before the police and submit himself for interrogation.

9. The Criminal Original Petition is disposed of with the above direction.

kj

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Inspector of Police,
Omarabad police station,
Ambur Taluk, Vellore District.

2. The Public Prosecutor, High Court, Chennai.

+ 1 cc to Ms.B.Keerthi, Advocate Sr 9188

KR/25/2/16

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