



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:

Reserved on	Pronounced on
12.04.2017	19.04.2017

CORAM:

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

Crl.O.P.(MD) No.4319 of 2017
and Crl.M.P.(MD) No.3104 of 2017

B.K.Saravanan

... Petitioner/Sole Accused

Vs.

1. The Inspector of Police,
Palamedu Police Station,
Palamedu, Vadipatti Taluk,
Madurai District.

... Respondent/Complainant

2. Tmt.Rukmani Ammal
The Joint Director of Wealth &
Family Welfare Department &
Govt. Hospitals of Usilampatti,
Madurai (East), Madurai District.

... Respondent/Defacto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records in pursuant to the impugned FIR filed in Crime No.20 of 2017 on the file of the Respondent/Complainant and quash the same.

For Petitioner : Mr.N.C.R.Janagan
For R1 : Mr.K.Anbarasan
Govt. Advocate (Crl.side)

O R D E R

This petition has been filed seeking to call for the records pursuant to the impugned FIR filed in Crime No.20 of 2017 on the file of the Respondent/Complainant and quash the same.

2. On the complaint lodged by the Joint Director of Health Services, Madurai, the respondent police registered a case in Crime No.20 of 2017 on 25.01.2017 under Sections 420, 468, 471 IPC and Section 15(3) of the Indian Medical Council Act, 1956 against the petitioner, challenging which, the petitioner is before this Court.

3. On a reading of the FIR, it is seen that a team of Officials from the Directorate of Health Services inspected the Dispensary of the petitioner on 18.11.2016 and found that he was prescribing Homeopathy and Allopathy medicines without a valid degree. Hence, the complaint and the consequent FIR as stated above.



4. Learned counsel for the petitioner strenuously contended that the petitioner is a member of Council of Alternative Systems of Medicines, West Bengal and therefore, he cannot be termed as a quack Doctor. Learned counsel also placed strong reliance on the legal opinion dated 03.02.2017 given by Mr. Rabindra Nath Kundu, Advocate, High Court, Calcutta, who is a Legal Advisor of Council of Alternative Systems of Medicines. In the legal opinion dated 03.02.2017, it is stated that the petitioner can practise alternative systems of medicines and if there is any interference by the authorities, necessary action can be taken against them in an appropriate forum.

5. Per contra, learned Government Advocate (Crl.Side) strongly refuted the contention.

6. This Court gave its anxious consideration to the rival submissions.

7. The fact remains that the petitioner does not have a degree to practise any of the alternative systems of medicines from any recognized University. The certificate relied upon by the petitioner is not a degree certificate. The Council of Alternative Systems of Medicines is a society registered under West Bengal Societies Act and that the membership in that forum without a valid degree from University cannot give a right to the petitioner to practise any medicine. The opinion given by the said Advocate cannot be a shield against criminal prosecution. The issue regarding quack Doctors has already been settled by this Court in the case of Private Medical Practitioners Association of India, Central Office, represented by its President C.S. Agarwal, No.6600 Bahadurkar Road, New Delhi 100 006 and others vs. The State of Tamil Nadu, represented by the Commissioner and Secretary to Government, Health and Family Welfare Department, Fort St. George, Chennai 600 009 and others [W.P.No.9691 of 2006 & W.P.M.P. No.10792 of 2006 and Crl.O.P. Nos.5790 to 5793 of 2013] decided on 20.10.2016.

8. In the result, this petition is devoid of merits and the same is accordingly dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To:

1. The Inspector of Police, Palamedu Police Station,
Palamedu, Vadipatti Taluk, Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

RL/3C/2P/RR/4.5.2017

ORDER IN

Crl.O.P. (MD) No.4319 of 2017
and Crl.M.P. (MD) No.3104 of 2017
19.04.2017