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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.02.2018

Delivered on : 06.03.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.12919 of 2013

and

M.P.(MD)No.1 of 2013

T.Maria Antony

... Petitioner

Vs.

1.The State Rep. by
The Sub-Inspector of Police,
Uthumalai Police Station,
Tirunelveli District.
(Crime No.110 of 2013)

2.Chellapandi

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in pursuant to the FIR in Crime No.110 of 2013 on the file of the first respondent police and quash the same.

For Petitioner : Mr.S.Mandhiralingeswaran

For R1 : Mr.R.Prabhu Ramachandran
Government Advocate
(Criminal side)

For R2 : No Appearance

ORDER

The petitioner being the accused in Crime No.110 of 2013 on the file of the first respondent police filed this petition under Section 482 Cr.P.C., in which, he is seeking the relief to call for the records in pursuant to the FIR in the abovesaid crime number and quash the same as illegal.

2.On 23.05.2013 the first respondent police based on the complaint given by one Chellapandi, registered a case in the abovesaid crime number for the offences punishable under Sections 419 and 420 IPC r/w. 15(3) of the Indian Medical Council Act, 1956. In the said FIR, the defacto complainant made an allegation as the petitioner herein is doing medical practice in the name and style of 'Prithi Clinic' at V.Reddiarpatti. Further, he made an allegation as after getting treatment from the petitioner for his stomach pain



and chest pain, the same were not cured. After registration of the case, the petitioner herein approached this Court for the relief stated supra.

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3.Now, in order to substantiate the claim made by the petitioner, the learned counsel appearing for the petitioner made a submission as the petitioner being the registered Medical Practitioner in Homeopathy Medicine, is having the right to practice as per his choice. Further, he added that this Court on 23.07.2010 directed the Director General of Police, not to take action against the registered medical practitioners. Moreover, the Government of Tamil Nadu after accepting the qualification of the petitioner, recognised him as a Doctor. Without noting those aspects, the first respondent police registered a case, which is against the order passed by this Court as well as against the Circular issued by the Director General of Police, dated 19.06.2010, in R.C.MO.No.14742/CR.IV(2)/2010.

4.Now, considering the submission with the documents submitted by the petitioner, it is an accepted fact that on 15.04.1991, the Tamil Nadu Homeopathy Council recognized the service of the petitioner in Homeopathy Medicine and Surgery. Further, on 08.08.1991, the said Council registered the name of the petitioner in Certificate No.463. Those documents evidence that the petitioner is a recognized Homeopathy Medicine Practitioner.

5.The Circular dated 19.06.2010, issued by the Director General of Police, is reproduced as under:-

'In the reference cited, the Government have stated that the Police Department in the course of their action against the Quacks has inspected the clinics run by the registered medical practitioners in Siddha, Ayurveda, Homeopathy and Unani and arrested some of them as if they had practiced Allopathy System of Medicine. The Government have informed that as per Section 17 (3)(B) of the Indian Medicine Central Council Act, 1970 the institutionally qualified practitioners of Siddha, Ayurveda and Unani Tibb Homeopathy are eligible to practice respective systems with modern scientific medicine including Surgery and Gynecology Obstetrics, Anesthesiology, ENT, Ophthalmology etc based on the training and teaching.

<https://hcservices.ecourts.gov.in/hcservices/> Hence all the Commissioners of Police, Inspectors General of Police, Deputy Inspectors General of Police and Superintendents of Police are requested to instruct the police officers in the Cities and Districts not to intervene with



the practice of registered practitioners of Siddha, Ayurveda, Unani, Homeopathy and Naturopathy who are registered in the Tamil Nadu Siddha Medical Council, Tamil Nadu Board of Indian Medicine and Tamil Nadu Homeopathy Medicine Council. If any reason of the doctors who are already under arrest may be reviewed with reference to the above clarification.

3.The letter from the Health & Family Welfare Department, dated 15.06.2010, is enclosed for perusal.

4.This instruction should be scrupulously followed.''

6.According to the abovesaid Circular, all the Police Officers of Tamil Nadu are restrained to take action against the Medical Practitioner in Siddha and Ayurveda, with regard to the service rendered to the general public. Instead of obeying the said Circular, the first respondent herein registered the case and initiated action. Moreover, this Court in a case of Tamil Nadu Siddha Medical Graduates Association, Rep. by its President Vs. Letika Saran reported in 2010 (4) CTC 798, has held as follows:

''4.In the light of the said Circular, it is imperative that no proceedings can be initiated against any of those registered practitioners in Siddha, Ayurveda, Homeopathy and Unani, who are eligible to practice irrespective of the respective system also with Modern Scientific Medicine including Surgery and Gynecology Obstetrics, Anesthesiology, ENT, Ophthalmology, etc. Such registration of the medical practitioners with Tamil Nadu Siddha Medical Council, Tamil Nadu Board of Indian Medicine and Tamil Nadu Homeopathy Medical Council as well as such of those qualified doctors who were recognised as such by the Madurai Kamaraj University and Tamil Nadu Dr.MGR Medical University who have been qualified respectively in the system of bachelor of Siddha Medicine and Surgery. If any action had been taken against such of those medical practitioners referred to above, it is needless to state that, such action should be dropped forthwith pending further orders in the Writ Petition.''

7.So, this Court also confirmed the Circular issued by the Director General of Police. Therefore, I am of the opinion that the prayer sought by the petitioner is reasonable one.



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8. Accordingly, this Criminal Original Petition is allowed and the proceedings relating to Crime No.110 2013 pending against the petitioner on the file of the first respondent police, shall stand quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The Sub-Inspector of Police,
Uthumalai Police Station,
Tirunelveli District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.S.MandhiraLingeshwaran, Advocate, SR.No.53239

smn2

RL/4C/4P/SV/MMS/SAR2/15/3/2018

Order in

Cr1.O.P. (MD) No.12919 of 2013