

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.03.2019

CORAM
THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3611 of 2018
and Crl.M.P.Nos.1627 and 1628 of 2018

R.Balamuralidharan,

.. Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Veppur Police Station,
Cuddalore District.
(Crime No.369 of 2017)

2.Saminathan
Chief Medical Officer,
Government Hospital,
Virudhachalam,
Cuddalore District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records relating to the charge sheet in C.C.No.313 of 2017 on the file of the Judicial Magistrate No.1, Virudhachalam and quash the same.

For Petitioner : Mr.Subash Babu.

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

For R2 : No appearance.

ORDER

This petition has been filed to quash the charge sheet filed in C.C.No.313 of 2017, on the file of the Judicial Magistrate No.1, Virudhachalam.

2.The learned counsel for the petitioner submitted that the petitioner is a qualified person to practice Homeopathy medicine and Acupuncture from the year 1988. The petitioner is doing Homeopathy medical and Acupuncture practice without any remarks. However, without considering the same, the second respondent foisted false complaint as against the petitioner for the offences under Section 420 IPC and 15(3) of Indian Medical Council Act, 1956. In respect of offence under Section 420, the

case is not at all made out since there is absolutely no material to connect the petitioner in the said offence. Infact, the petitioner is a registered medical practitioner under the Council of Indian Acupuncturists, Pondicherry and his registration number is 1051. Without considering the same, the first respondent has mechanically filed a final report. The learned counsel for the petitioner further submitted that those who have said to have given statement under Section 161(3) Cr.P.C have written letters to sworn affidavit to the Inspector of Police stating that they did not give any statement to the investigation officer. Therefore, he seeks to quash the charge sheet in C.C.No.313 of 2017.

3.Per contra, the learned Additional Public Prosecutor submitted that the petitioner did not produce any documents with regard to his qualification, registration etc., at the time of inspection. He further submitted that the petitioner without possessing any valid qualification was practising allopathy medicine. Therefore, the charges against him are clearly made out and prays for dismissal of the petition.

4.Heard M.Subash Babu, learned counsel for the petitioner and M.Mohamed Riyaz, learned Additional Public Prosecutor for the 1st respondent.

5.The petitioner herein is the sole accused in Crime No.369 of 2017, for the offences under Section 420 of IPC and 15 (3) of Indian Medical Council Act, 1956. It is seen that the petitioner has possessed Diploma in Acupuncture and has also completed 4 years course of Bachelor of Electropathy Medicine and Surgery at Cure Medical Institute of Electropathy and Hospital Vellore, which is authorized by N.E.H.M of India Central Board, New Delhi. He has also completed Master of Science (MS) in counselling and Psychotherapy from 2004 to 2006 and possessed the certificate issued by Institute of Psychotherapy and Management Science, Mumbai. Further, the petitioner's name has been mentioned in Roll No.1051 in the Government of Tamilnadu Gazette on 04.11.2000, which discloses that the petitioner is entitled to practice Homeopathy medicine and Acupuncture. This shows that the petitioner can practice homeopathy and Acupuncture. Hence, there is no question of cheating the public. Further even assuming that the petitioner is not a qualified Doctor, there is no material to attract the offence under Section 420 IPC. This Court has repeatedly held that the medical practitioners should not be disturbed under the guise of enquiry by the Police Authorities and it amounts to harassment also.

6.Considering the above facts and circumstances of the case, the pendency of the proceedings in C.C.No.313 of 2017 is nothing but a clear abuse of process of Court. To meet the ends

of justice, the charge sheet filed in C.C.No.313 of 2017, before the learned Judicial Magistrate No.1, Virudhachalam, is hereby quashed. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

rm

To

1.The Judicial Magistrate No.1,
Virudhachalam.

2.The Inspector of Police,
Veppur Police Station,
Cuddalore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Subashbabu, Advocate, S.R.No.28789

Cr1.O.P.No.3611 of 2018
and

Cr1.M.P.Nos.1627 and 1628 of 2018

KAN (CO)

RRS (27/04/2019)



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