



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.1459 OF 2017

Ramasamy

...Petitioner

Vs.

State rep. by Inspector of Police,
Karumathampatti Police Station,
Coimbatore District.

...Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the order made in C.M.P.No.168 of 2017 in C.C.No.569 of 2017 on the file of the Judicial Magistrate at Sulur dated 22.09.2017 and acquit the petitioner/accused in respect of offence under section 15(3) of the Indian Medical Council Act and u/s 420 IPC.

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been preferred challenging the order of the learned Judicial Magistrate, Sulur, Coimbatore dated 22.09.2017 passed in CMP.No.168 of 2017 in C.C.No.569 of 2017.

2. The revision petitioner is the accused. The prosecution has filed the charge sheet against the accused for the offence under Section 15(3) of Indian Medical Council Act, 1956 and Section 420 IPC on the allegation that the accused, who is not a qualified medical practitioner, has been treating the public and causing damages to their health.

3. On the complaint given by one S.R.Raju on 20.07.2014, a case was registered in Crime No.238 of 2014 of Karumathampatti police station, Coimbatore District under Section 15(3) of the Indian Medical Council Act, 1956 and 420 IPC. The complainant has stated in his complaint that his relative Nataraj suffered



from cold and fever and hence, on 19.07.2014 at about 9.00 p.m, he went to the accused and the accused treated him by administering an injection. Subsequently, the said Nataraj got high fever. So he was taken to a different Hospital and the doctor there treated Nataraj and stated that the previous treatment given to Nataraj was a wrong one. Later, Nataraj came to know that the accused is not a qualified doctor and he is cheating the public by claiming himself as a doctor.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. side) appearing for the respondent. Perused the entire materials available on record.

5. The learned counsel for the revision petitioner submitted that the complainant is none other than the relative of the accused with whom he has several civil disputes; Some of the documents would show that there is a pending litigation between the accused, de facto complainant and his father Rangasamy; the person who was treated by the accused had given a statement that he was examined by the doctor/accused for his cold and fever when he went for treatment; after he got an injection from him, his cold and fever went got aggravated; then he went to another doctor for treatment and thereafter, he became alright; one of the important statement that would show the prima facie materials for the allegations made against the accused is the statement of doctor Raman, who had treated Nataraj; but his statement is very bald and he has not stated about the presence of exclusive symptoms or wrong treatment or wrong medicines administered to Nataraj. He has merely stated that Nataraj was not properly treated and hence there is no prima facie materials available on record to charge the accused.

6. In support of his contention, he relied on the judgment rendered by this Hon'ble Court in Villi Thevar and 11 others Vs. State reported in 1997 (II) CTC 581. The relevant paragraph No.6 reads as follows:-

"6. None of the above reasons have been taken note of by the learned Chief Judicial Magistrate while passing the order under revision. The only reason given by the learned Chief Judicial Magistrate is that the statement of Muniasamy was sufficient to hold a prima facie case against the petitioners. In a petition under Section 227, Cr.P.C several reasons have been urged by the petitioners to show that there was no basis for prosecuting them. Even a discretionary order to be passed under Section 227 Cr.P.C should be passed on a proper consideration of the various issues therein, instead of merely referring to the contention and without any discussion thereon, merely holding that there is



prima facie case against the accused. Such an order cannot be sustained. Such an approach would only render and reduce Section 227, Cr.P.C into a meaningless and ineffective provision."

WEB COPY

7. Point for consideration:-

Whether the order to discharge the accused passed by the learned Judicial Magistrate is fair and proper?

8. The basic materials relied by the prosecution is only from the statement of the doctor Raman, who was said to have treated Nataraj for the alleged side effects suffered by him due to the wrong injection administered to him by the petitioner/accused. The medicine, which is alleged to have been used for giving injection to Nataraj was not seized and produced. Neither the name of the medicine is mentioned anywhere. A person cannot be charged for the alleged offences under Sections 15(3) of the Indian Medical Council Act and 420 IPC merely on the basis of the complaint given by a person, who is directly inimical to the accused. If the trial is allowed to go without any ground materials to substantiate the case, that would only waste the time of the Court.

9. It is true that the power to discharge the accused should be sparingly used and whenever prima facie materials are found, the prosecution should be allowed to proceed and the Court cannot look into the evidence by making any roving enquiry at the initial stage of the proceedings. However, it is the duty of the Court to find out if any prima facie material is available, so as to charge the accused under the relevant provisions of law. The accused is a registered homeopathic and siddha doctor. So people may be going to him for treatment.

10. Excepting the statement of one person by name Nataraj, who is inimical to the accused no other person has given statement as to the alleged maltreatment given by the accused. As it is already stated, the statement of the doctor Raman is very bald and it does not speak about the details of the wrong treatment or adverse symptoms found on Nataraj. Even the name of the medicine wrongly used by the accused is also not mentioned anywhere. The process of law can not be allowed to be misused by anyone to settle his personal vengeance without producing any ground materials to charge the accused. The learned Magistrate without appreciating the baldness in the case of the prosecution, has proceeded to record a finding that prima facie materials are available. Hence, it warrants interference.

11. In the result, this Criminal Revision Case is allowed. The order of the learned made in C.M.P.No.168 of 2017 in



C.C.No.569 of 2017 on the file of the Judicial Magistrate at Sulur dated 22.09.2017 is hereby set aside.

WEB COPY

// True Copy //

Sd/-
Assistant Registrar(CCC)

Sub Assistant Registrar

kmi

To

- 1.The Judicial Magistrate,
Sulur.
- 2.The Inspector of Police,
Karumathampatti Police Station,
Coimbatore District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to G.Murugendran, Advocate Sr.No.65398

Cr1.R.C.No.1459 of 2017

RSV(CO)
RVM(28/02/2022)