



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.922 of 2018
and Crl.M.P.No.318 of 2018

Dr.Subramaniam BPT

...Petitioner/Accused

Versus

The State represented by
Inspector of Police,
Eriyur Police Station,
Eriyur, Pennagaram Taluk,
Dharmapuri.

...Respondent /Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the FIR and the proceedings thereof in Crime No.223 of 2017 on the file of Inspector of Police, Eriyur Police Station, Eriyur, Pennagaram Taluk, Dharmapuri.

For Petitioner : Mr.J.Srinivasa Mohan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate(Crl.side)

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the FIR and proceedings thereof in Crime No.223 of 2017 on the file of Inspector of Police, Eriyur Police Station, Eriyur, Pennagaram Taluk, Dharmapuri.

2. The crux of the allegations is that based on the complaint preferred by one Dr. Ponnuraj MBBS, the survey was conducted by the authorities in the clinic run by the petitioner herein, wherein, he has run the clinic using the name board stating BMBS, CMP, NUMS Chennai 2012, Reg No.1031 Central Medical Council and also appears to have made use of syringes in the clinic, thereby, the FIR has been registered against the petitioner for the offence under Section 420 of IPC r/w Section 15(2)(3) of Indian Medical Council Act, 1956.



3. Learned counsel for the petitioner submitted that the petitioner has completed BMBS (Beneficiary of Medicine and Service) and Chartered Medical Practitioner (CMP) Course from National University of Medical Science which has been approved by the Ministry of Health and Family Welfare. In this regard, he has already sent a certificate to Tahsildhar and all the concerned authorities. After receiving the certificate, the petitioner caused a notice to the District Collector, Dharmapuri with a copy to Health Secretary, Ministry of Health and Family Welfare and also to the Police Department in the year 2015. The purpose of the notice was to inform the concerned authorities about his qualification and area of proposed practice. Thereafter, the petitioner was permitted to practice from April, 2015. Without considering the same, merely on the basis of some complaint given by one of the other Doctors, he has been falsely implicated in this matter. Hence, it is nothing but abuse of process of law and the same has to be quashed.

4. The learned Government Advocate (Crl.side) has not disputed the certificates available on record.

5. Heard the learned counsel on either side and perused the materials available on record.

6. In fact, the petitioner is a qualified and holding a certificate in BMBS and CMP by Paavai Medical Science Academy and also community Medical Certificate issued by the World Rural Medical Association, New Delhi(India) and he is also qualified as Physiotherapist and practitioner of Modern Scientific Medicine and also life time member in Community Medical Service and he had also sent a necessary Application for registering his qualification and after getting certified by the Tahsildar and Inspector of Police, he has enclosed all the documents to the authorities concerned as early as on 13.03.2015. The certificates clearly indicate that he has Diploma in CMS and also in Physiotherapy which empowers him to practice Homeopathy in Physiotherapy. Therefore, merely because he has not obtained the degree of MBBS and qualified as an Allopathy Doctor, it cannot be said that he has committed the act of cheating and no person is said to have been subjected to such cheating activities. Therefore the offence under Section 420 of IPC would not be attracted. Except mere allegation that syringes were found in the clinic, there is no other allegations whatsoever made to attract the offence under Section 15(2)(3) of the Medical Council Act.

7. This Court is of the view that the Court can exercise its power under Section 482 of Cr.P.C to quash the FIR. In a similar



case, this Court has already quashed the proceedings vide order dated 26.03.2019 in CrI.O.P.No.3611 of 2018. Hence, the proceedings against the petitioner is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msv/nr

To

1.The The Inspector of Police,
Eriyur Police Station,
Eriyur, Pennagaram Taluk,
Dharmapuri.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Srinivasa Mohan, Advocate Sr.1723

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srg 04/02/2022