



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.OP No.7661 of 2019

1.Dr.Loganayaki  
2.Dr.Priya Senthil @ D.Priya .. Petitioners/Accused

Vs

Mrs.P.Priya Baskar .. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the criminal proceedings in respect of petitioners/accused in Crime CC No.8534 of 2017 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai.

For Petitioners : Mr.N.Vanaraj

For Respondent : Mr.C.S.Saravanan

ORDER

This petition had been filed under Section 482 Cr.P.C., to call for the records and quash the criminal proceedings in respect of petitioners/accused in Crime CC No.8534 of 2017 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai.

2.Heard the learned Counsel for the Petitioners and the learned Counsel appearing for the Respondent.

3.The learned Counsel for the Petitioners has submitted that on the earlier hearing date i.e., on 06.04.2022, the case was directed to be posted today to hear the respondent's arguments.

4.The learned Counsel for the Respondent appeared before this Court and advanced his arguments. He also furnished the additional typed set of papers wherein, a copy of the petitioners' School Certificates had been enclosed along with paper publication in respect of the petitioners. The respondent has also furnished a copy of the reply received from the Annamalai University regarding the education of the petitioner. It is the contention of the respondent that the second petitioner had not at all completed her +2 and for which, she had filed a copy of the +2 marks sheet, which is in the name of Dr.Lalitha Priya. According to the learned



Counsel for the Respondent that the second petitioner was terminated from the Annamalai University for furnishing false certificate for having secured Provisional Course admission. Hence, the respondent seeks to dismiss of this petition.

WEB COPY

5. By way of re-joinder, the learned Counsel for the Petitioners has submitted that at page no.1 of the additional typed set of papers, it is noticed that based on the private complaint preferred by the respondent, notice was issued from the Tamilnadu Medical Council to the petitioners herein and reply was also sent by the petitioners. Further, the learned Counsel for the Petitioners furnished the Indian Medical Register regarding the petitioners. Since the Tamilnadu Medical Council had conducted an enquiry based on the complaint of the respondent and also accepted the explanation offered by the petitioners, it is for the respondent to seek an appropriate remedy elsewhere and not by filing a criminal complaint as though the petitioners had committed the offences attracting the ingredients of Sections 406 & 420 of IPC. Therefore, the learned Counsel for the Petitioners sought to quash the criminal complaint in CC No.8534 of 2017 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai.

6. On perusal of the said complaint, it is found that the petitioners were alleged to have conducted medical examination and treated the respondent. As rightly pointed out by the learned Counsel for the Petitioners, after the treatment by the petitioners, due to various other causes, the respondent might have suffered infection in the uterus. Therefore, she was immediately admitted in Motherhood Hospital for urgent treatment and she was treated conservatively with bed rest, I.V. fluids, antibiotics and other supportive medicines to improve the scanty amniotic fluid with constant monitoring and repeated assessment of her condition. However, after further scan, which is showed one fetus has died due to low fluid level, other fetus was aborted since the dead fetus may create serious complications like septic shock, DIC etc. Hence, the respondent had preferred a private complaint against the petitioners herein in the Court of the learned XIV Metropolitan Magistrate, Egmore, Chennai.

7. As rightly pointed out by the learned Counsel for the Petitioners, the petitioners had treated the respondent and the respondent become pregnant due to the treatment subsequently, she suffered due to infection but not by the treatment of the petitioners. The second petitioner has conducted surgery to the respondent, subsequently, the respondent had preferred a complaint to various authorities including Medical Council of India. The Medical Council of India is a competent Regulatory Authority regarding the profession of Doctors. They had conducted an enquiry and nothing was found against the petitioners for the alleged lapses.



8. In the light of the above, a private complaint lodged by the respondent attracting the ingredients of Sections 406 and 420 of IPC is found to be an attempt to harass the petitioners, who are the practicing Doctors. The guidelines laid down by the Hon'ble Supreme Court in "State of Haryana versus Bhajan Lal, reported in 1992 Supp(1) SCC 335, will squarely apply to the facts of the present case also. Therefore, a private complaint preferred by the respondent/defacto complainant in respect of the petitioners/accused in CC No.8534 of 2017 pending on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai, is liable to be quashed.

9. In the light of the above discussion, this Criminal Original Petition is allowed. Consequently, the Criminal Complaint in CC No.8534 of 2017 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai is quashed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dn

To

1. The XIV Metropolitan Magistrate,  
Egmore, Chennai

+1cc to Mr.N.Vanaraj, Advocate, S.R.No. 28337

Cr1.OP No.7661 of 2019

AK II(CO)  
GN(27/05/2022)