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CRL.O.P.No.13442 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM:

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

Crl.O.P.No.13442 of 2021

and

Crl.MP.No.7382 of 2021

K.Prakasam

..

Petitioner

Versus

1. The Sub Inspector of Police,
Sendhamangalam Police Station,
Namakkal District.

...

1st Respondent/complainant

2. Dr.P.Karunanidhi
Senior Assistant Surgeon,
Registration No.48485,
Government Hospital,
Sendhamangalam,
Namakkal District.

...

2nd Respondent/*Defacto* complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Crime No.324 of 2018 on the file of 1st respondent and quash the same.

For Petitioner

:

Mr.R.Sundar

For Respondent-1

:

Mr.A.Gopinath

Government Advocate(crl.side)



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ORDER

This Criminal original petition has been filed to quash the FIR in Cr.No.324 of 2018 on the file of the first respondent police.

2. The petitioner is arrayed as an accused in the First Information Report in Cr.No.324/2018 for the offences under Sections 419, 420 of the Indian Penal Code, 1860 and 15(3) of the Indian Medical Council Act, 1956.

3.The FIR has been registered on the complaint given by the second respondent by name Dr.P.Karunanithi, who is a Senior Assistant Surgeon, of the Government Hospital, Sendhamangalam, Namakkal District. On 05.12.2018, the second respondent had conducted inspection at the order of the Joint Director of Health department, Namakkal. During the said inspection, he came to know that the petitioner has got surgical equipments, medicines and all other equipments for the purpose of giving medical treatment. Some of the injections and other materials were also seized.

4.Heard the submissions made by the learned counsel on either side and perused the materials available on record.



5. The learned counsel for the petitioner submitted that the petitioner has got a license for his pharmacy by name and style 'M/S.Sri Venkateswara Medical & Stationeries' and the materials seized were not meant for giving any treatment.

6.The learned Government Advocate(crl.side) appearing for the first respondent police submitted that the materials which had been seized from the custody of the petitioner would fall under Schedule 10 of the Drugs and Cosmetics Rules and for which, the petitioner does not have any license. Since there are enough ingredients available to make out a case against the petitioner, investigation should be allowed to go.

7. On perusal of the records, it is seen that the petitioner is a certificate holder in Allopathic Medicines and he possesses a license to run a medical shop. It is not a case of the prosecution that the petitioner was selling medicine without obtaining any valid license. The specific allegation is that the petitioner is not a doctor is giving treatment to the public. If the petitioner sells any medicine in his medical shop in violation of the terms of his license appropriate action would have be taken by the concerned authorities for such violation under the Drugs and Cosmetic Act, 1940. No



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such action has been against the petitioner so far. There is no complaint received from any public that the petitioner had given any treatment to any of the public and they were affected due to that.

8.The second respondent who is a doctor, has conducted a secret inspection by himself and gave a complaint by stating that the petitioner was having saline bottle, syringes, needles and certain medicines which should be administered surgical equipments. These medicines would normally be available in medical shops and the petitioner who is the medical shop owner has a valid licence to sell medicines. Hence, he can not be found fault for having such medicines and minor equipments like needles and syringes.

9. Without any complaint or statement given by anyone from the public the petitioner cannot be made liable for the offences Sections 419, 420 of the Indian Penal Code, 1860 and 15(3) of the Indian Medical Council Act, 1956. It has been stated already that the petitioner has not given treatment to any public and hence the seized articles has got no relevance to the allegations levelled against the petitioner. When the materials does not disclose any offence on the face of it, it is unnecessary to continue the investigation. In view of the above stated reasons and in order to serve the



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ends of justice, I feel it is an appropriate case for invoking the powers of this Court under Sec.482 Cr.P.C, to quash the FIR against the petitioner.

In the result, this Criminal Original Petition stands **allowed** and the proceedings of the FIR in Crime No.324 of 2018 on the file of 1st respondent is quashed as the petitioner. Consequently, connected miscellaneous petition is closed.

21.12.2022

Index: Yes/No
jrs

To:

1. The Sub Inspector of Police,
Sendhamangalam Police Station,
Namakkal District.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

jrs

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