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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reservation : 28/06/2023

Date of Pronouncement : 19/07/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.22383 of 2023

and

Crl.MP(MD)Nos.15818 of 2022 and 5404 of 2023

Dr.Jehi @ Jehi G.Dhas : Petitioner/Sole Accused

Vs.

1.The State represented by
Sub Inspector of Police,
Kotticode Police Station,
Kanyakumari District. : R1/Complainant

2.J.John Britto,
Joint Director of Health Services,
Nagercoil,
Kanyakumari District. : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in CC No.317 of 2022 in the Final Report No.FR.40 of 2021 in Crime No.207 of 2020 on the file of the Judicial Magistrate No.1, Padmanabhapuram, Kanyakumari District, quash the same.



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For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

For 2nd Respondent : No appearance

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.317 of 2022 in Final Report No.FR.40/2021 in Crime No.207 of 2020 on the file of the Judicial Magistrate No.1, Padmanabhapuram, Kanyakumari District.

2.The case of the prosecution in brief:-

The de-facto complainant, who was working as Joint Director of Medical, Rural Health Service, Kanyakumari district made a search, on 07/10/2000 at about 12.45 pm, along with his team members in Sapphire Hospital, Verkilambi, Kanyakumari District. At that time, they found the accused practising Allopathy medicine. On enquiry, it was found that he was only registered BHMS. He is entitled to practise only Homeopathy and not



allopathy. At that time of inspection, one Crystal Jansi was also found practising. On enquiry, she revealed that she has studied DMLT. Stating that they are competent to practise allopathy medicine, they treated the patients. On the basis of the above said inspection and enquiry, he lodged a complaint. Upon which, a case was registered in Crime No.207 of 2020 for the offence under section 15(3) of the Indian Medical Council Act, 1956. After completing the investigation, they filed final report and it was taken cognizance in CC No.317 of 2022 by the Judicial Magistrate No.1, Padmanabhapuram, Kanyakumari District.

3. Seeking quashment of the same, this petition has been filed by the petitioner mainly on the ground of precedent in form of various orders in similar situation passed by this court. The second ground is that even as per the Government of Tamil Nadu notification, registered medical practitioner under various categories were permitted to practise allopathy medicine also.

4. Heard both sides.



5.The issue has come up before this court for more than one occasions as mentioned above. The first one is in the case of Tamil Nadu Sidha Medical Graduates Association, rep by its President Vs. Letika Saran (2010(4) CTC 798, it was uniformly followed in subsequent cases. Similarly, the Central Council of Indian Medicine Institution, New Delhi, has issued a notification in F.No.28-5/2014-A7(MM), dated 19.05.2004 by which the qualified Medical Practitioners of Ayurveda, Siddha, Homeopathy and Unani are eligible to practice in the respective systems with modern scientific medicine including Surgery and Gynecology as stated above. Similarly, the Government in a letter No. 22715/IM-11-2/2010, dated 15.06.2010, issued directions to the police officers, who indulged in registering a case and arrested the Indian Medical practitioners. The same notification was also extended to Homeopathy Medical practitioners in letter No.22715/IM/ 2(2)/2010-4, dated 16.06.2010. So, as per the notification, the police have no right to interfere into the practice of the Medical Practitioner practice. Similarly, the Director General of Police (DGP), Chennai, has also issued a Memorandum, dated 19.06.2010 to the police not intervene into the



Medical Practitioners' practise under Indian Medicine Category.

6.While pointing out this precedent as well as the circular, this court has opined that in spite of repeated circulars, orders, notifications as well as the judgment of this court, continuous activities have been undertaken by the authorities in registering the complaint stating that they have violated section 15(3) of the Indian Medical Council Act, 1956.

7.Since uniformity has been maintained by this court, while dealing with those subjects, I am of the considered view that nothing more is to be discussed in this matter, which will be duplication or repetition of the orders and observations.

8.In view of the above said settled position of uniformity, the final report filed against the petitioner is liable to be quashed.

9.In the result, this criminal original petition stands **allowed**. The case in CC No.317 of 2022 in Final



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Report in FR-40/2012 in Crime No.207 of 2020 on the file of the Judicial Magistrate No.1, Padmanabhapuram, Kanyakumari District is hereby quashed against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

19/07/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate No.1,
Padmanabhapuram,
Kanyakumari District.
- 2.The Inspector of Police,
Kotticode Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.OP (MD) No.22383 of 2022

19.07.2023