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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2024

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

CrI.O.P(MD)No.2217 of 2023

and

CrI.M.P(MD)No.1948 of 2023

S.K.Haja Mohideen

... Petitioner

Vs

1. The Inspector of Police,
Iluppur Police Station,
Pudukkottai District.
Crime No. 151 of 2017.

2. J.Rathika,

... Respondents

PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to call for the records of impugned First Information Report in Crime No.151 of 2017 on the file of the respondent no.1 police station and quash the same as illegal and quash the same as illegal as against the petitioner.

For Petitioner : Mr.A.Abdul Kabur

For Respondent :Mr.S.Ravi
Additional Public Prosecutor



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ORDER

This petition has been filed to quash the FIR in Crime No.151 of 2017 pending investigation on the file of the first respondent.

2.The case of the prosecution is that the second respondent gave a complaint to the effect that the petitioner, who is a Pharmacist was found to be giving medicines to the general public. During inspection, when he saw the officials, he fled from the spot. Under these circumstances, the FIR came to be registered for the alleged offence under Section 15(3) of the Indian Medical Council Act, 1956 and Section 420 of IPC.

3.The learned Counsel for the petitioner submitted that the entire complaint is attended with mala fides since the petitioner was working as a Pharmacist in a Government Hospital and he was placed under suspension by the Joint Director of Medical Rural and Health Services, Pudukottai through proceedings dated 29.12.2004. The petitioner contested the same in accordance with law. Hence repeated complaints were given against the petitioner. The first complaint was given against the petitioner in the year 2005. The second complaint was given in the year 2006 and the third complaint which is the subject matter of challenge in the present case was



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given in the year 2017. All these complaints were given with the same allegations and insofar as the second complaint, which was registered in Crime No.135 of 2006 is concerned, the petitioner under went trial in C.C.No.164 of 2011 before the District Munsif cum Judicial Magistrate, Keeranur and was acquitted from all charges by judgment, dated 01.05.2012. The learned Counsel further submitted that no offence has been made out against the petitioner and the petitioner is being targeted just because he has challenged the proceedings of the concerned Joint Director suspending him from service.

4.*Per contra*, the learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner is a Government employee and he was was not supposed to carry on with private business as a Pharmacist. The learned Additional Public Prosecutor further submitted that the petitioner is repeatedly committing such offence and therefore, the FIR that is pending against the petitioner in the present case does not require the interference of this Court.

5.This Court has carefully considered the submissions made on either side and the materials available on record.



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6.The specific allegation made against the petitioner is that he was recommending medicines for those who came to the pharmacy shop and thereby, the petitioner was acting as if he was a Doctor.

7.In the case in hand, it is seen that the first complaint was given against the petitioner in the year 2005, which was registered as Crime No.89 of 2005. This FIR was ultimately quashed by this Court in CrI.O.P(MD)No. 2211 of 2023 by order, dated 05.11.2024.

8.The second complaint was given against the petitioner in the year 2006, which resulted in registration of FIR in Crime No.135 of 2006. The petitioner faced the trial in this case in C.C.No.164 of 2011 before the learned District Munsif cum Judicial Magistrate, Keeranur and the same ended in acquittal through judgment, dated 01.05.2012. The third case was registered against the petitioner in Crime No.151 of 2017, which has been made a subject matter of challenge in this petition. The allegation is that the petitioner was giving medicines to the public and on seeing the officials, he ran away from the spot. The officials thereafter, seized the medicines and syringes from the shop. This incident had taken place in the year 2017 and



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it is more than seven years since the incident had taken place. The petitioner has already faced two cases against him which ended in his favour. No useful purpose will be served in continuing the case against the petitioner. That apart, the departmental proceedings are also pending against the petitioner and he has not been allowed to retire from service.

9. Therefore, considering, the grounds that have been raised by the petitioner and the fact that seven years have passed by since the incident, this Court is inclined to exercise its jurisdiction under Section 482 Cr.P.C and interfere with the FIR.

10. In view of the above discussion, the FIR in Crime No.151 of 2017 pending investigation on the file of the first respondent is quashed. Accordingly, this criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

05.11.2024

Internet :Yes
Index :Yes/No
NCC :Yes/No
LR



To

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1. The Inspector of Police,
Iluppur Police Station,
Pudukkottai District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

LR

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