



Crl.O.P.(MD) No.3706 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.3706 of 2021

and

Crl.M.P.(MD)No.2055 of 2021

R.Justin Raj

... Petitioner

Vs.

1. State represented through
the Inspector of Police,
Kuzhithurai,
Kanyakumari District.
(Crime No.301 of 2012)

2. C.Rajagobal

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the final report in C.C.No.02 of 2016 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and quash the same as illegal.

For Petitioner : Mr.J.Pandi Durai

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl. Side)

For R-2 : No appearance



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ORDER

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This Criminal Original Petition is filed by the petitioner seeking to quash the final report in C.C.No.02 of 2016 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

2. The case of the prosecution in a nut shell is as follows:

The petitioner issued a paper publication on 25.05.2012 in Dhinamalar Tamil daily Newspaper inviting the willing students to join Karunya Electropathy Medical College and Hospital which was run by him. On seeing this advertisement, the second respondent/defacto complainant lodged a complaint with the first respondent stating that the petitioner even without a licence from the concerned authority is conducting an institution in Electropathy. This culminated into registration of F.I.R in Crime No.301 of 2012. The respondent police after conducting investigation, laid a final report and it was taken on file in C.C.No.02 of 2016 by Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.



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3. Mr.J.Pandi Durai, learned counsel appearing for the petitioner would contend that as per the notification issued by the Ministry of Health and Family Welfare (Research Desk) dated 25.11.2003, the petitioner has every right to run the Electropathy Medical College and Hospital and that the Ministry of Health and Family Welfare (Research Desk) on 05.05.2010 had clearly spelt out that as per the directions of the High court and Supreme court, there is no proposal to stop the persons from practicing Electropathy. His further contention is that the second respondent/defacto complainant is not a student in the college and therefore, he has no *locus standi* to lodge a complaint with the first respondent police. Therefore, he prayed to quash the entire final report. It is also his further contention that this college is affiliated to Naturo Electro-Homoeopathy Medicos of India, Ministry of Health and Family Welfare, Government of India.

4. Per contra, Mr.R.M.Anbunithi, learned Government Advocate (Criminal Side) would contend that the petitioner had filed a discharge petition under section 239 Cr.P.C on the very same grounds and the said petition was dismissed by the trial Court and as against the same, a Criminal Revision Petition was filed before this Court in Crl.R.C.No.350



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of 2010. A single Judge of this Court, vide orders, dated 10.07.2018, dismissed Crl.R.C.No.350 of 2010. His specific contention is that when there is no licence to run the college, they could not have issued a publication in Dinamalar daily Newspaper calling the general public to join the Petitioner's college.

5. The notification issued by the Government of India Ministry of Health and Family Welfare, Government of India, New Delhi in No.R.14013/25/96-U&H(R)(Pt.) dated 25.11.2003, reads as follows:

"As carefully examining the various recommendations of the Committee, the Government accepted these recommendations of the Committee. Accordingly, it is requested that the State/UT Govt. may give wide publicity to the decision of the Govt. They may also ensure that institutions under the State/UT do not grant any degree/diploma in the stream of medicine which have not been recommended for recognition and the term 'Doctor' is used by practitioners of recognized system of medicine."

6. Similarly, the Government of India, vide proceedings, No.V. 25011/276/2009-HR dated 05.05.2010 had stated that there is no proposal



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to stop the persons from practicing Electropathy or imparting education as long as this is done within the ambit of the orders from the Court and proceedings No.R.14015/25/96-U&H(R)(Pt.) dated 25.11.2003 of Ministry of Health and Family Welfare, Government of India.

7. It is pertinent to point out that the petitioner is not a party to the proceedings before the High Court and Supreme Court and he has not placed any material records to show that he comes within the ambit of the proceedings in No.R.14013/25/96-U&H(R)(Pt.) dated 25.11.2003 and the certificate of affiliation dated 06.02.2010 issued by the registered Naturo Electro-Homoeopathy Medicos of India, Ministry of Health and Family Welfare, Government of India, may not be helpful to the case of the present petitioner. In such circumstances, I do not see any reason to quash the final report in C.C.No.02 of 2016.

8. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Index: Yes/ No
Neutral Citation: Yes / No
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R.HEMALATHA, J.

jbr

To

1. The Inspector of Police,
T.Kallupatti Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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