



CrI.OP.No.17586 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.17586 of 2023

and

CrI.MP.No.11525 of 2023

1. P.Balasubramanian
2. L.Dharaniya

... Petitioners

Vs.

1. State by:
The Inspector of Police,
Vellakoil Police Station,
Tiruppur, Tiruppur District.
Cr.No.163 of 2023.

2. Kanagarani, M.B.B.S.,
Joint Director,
Medical and Rural Welfare,
Tiruppur District.

... Respondents

PRAYER: The Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the FIR in Cr.No.163 of 2023 dated 03.05.2023 for the alleged offences under Section 420 of IPC and 15(3) of Indian Medical Council Act, 1956.



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For Petitioner : Mr.T.G.V.Ramanigopal

For Respondents : Mr.R.Vinoth Raja
: Government Advocate(CrI.Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR registered in Cr.No.163 of 2023 on the file of the first respondent.

2. The case of the prosecution is that the second respondent/defacto complainant who is serving as a Joint Director, Director of Medical and Rural Health Service, Tiruppur District. Based on the complaint received that various institutions were running around the Tiruppur District without obtaining any approval, on 24.04.2023 an inspection was conducted at Sri.Selvanaygi Medical Institute of Electropathy and Hospital, wherein two courses namely 1. Diploma in Medical Lab Technology and 2. BE.M.S and MD (EH) courses were said to be taught without any approval, more particularly no approval was obtained for conducting above said first course from the Director of Medical Council, Chennai.



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3. The further case of the prosecution is that there was a stay order in W.P(MD) No.24555 of 2019 dated 25.02.2020 to conduct the second course. Further, without obtaining proper approval, the outpatient were treated and hence the above said institute and hospital was locked and sealed.

4. The further case of the prosecution is that the Director of the Institution was called for enquiry, but he did not appeared. Later, it came to be known that the petitioners are running a clinic in the name of “Sri.Selvanayagi Medical Institute of Electropathy and Hospital” at Dhasavanayakkan Katti, Kangayem Taluk, wherein it was found that in front of the clinic, a name board was placed by identifying the first petitioner as a Doctor and on inspection, certain medicines in the clinic were found which was not related to Homeopathic medicine and not registered with the Tamilnadu Medical Council. Thereby, the petitioners have been running an institution without any proper approval from Government of Tamilnadu and Midwives Council, Affiliation from the Tamil Nadu Dr.M.G.R.Medical University and suitable certificate from Indian Nursing counsel. Hence, the complaint.



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5. On the complaint lodged by the second respondent/defacto complainant, the first respondent registered an FIR against the petitioner in Cr.No.163 of 2023 for the offence punishable under Section 420 of IPC r/w 15(3) of Indian Medical Council Act, 1956. To quash the impugned FIR, the present petition has been filed.

6. The learned counsel for the petitioner submits that Shri Selvanayagi Medical Institute of Electropathy and Hospital is affiliated by N.E.H.M- Naturo Electro Homeopathy Medicos of India (in short NEHM of India) which is a premier organization, first of its kind, to engage in the promotion, development and research of Herbal Oriented New Medical System such as Electropathy/Electro Homeopathy under its specif aims and objective/ rules and regulations since more than 3 decades. It has wide network to promote this medical system by establishing Electropathy Institutions, conducting courses and awarding certificates to its qualified persons through out India. Nearly, 70 Electropathy Medical Institute are functioning through out India under its affiliation who are imparting Electropathy Education covering complete medical syllabi.

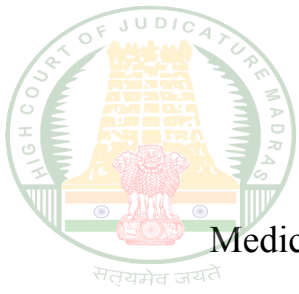


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WEB COPY 7. The learned counsel further submits that it is a competent authority to conduct examination and award certificates as per the directives made in FAO.No.205/92 dated 18.11.1998 passed by the Hon'ble High Court. Hence, he prays to quash the same.

8. Heard both sides and perused the materials available on record.

9. . As per order of Ministry of Health and Family Welfare, Department of Health Research, Government of India dated 05.05.2010, there is no proposal to start the petitioner from practicing the medicine of Electropathy/Electro Homeopathy or imparting education. Therefore, there is no ban to impart education in the medical stream of Electropathy/Electro Homeopathy and there is no ban on practice of Electropathy/Electro Homeopathy. Infact, this Court also in batch of Writ Petitions in W.P(MD).Nos.10041 of 2017 etc batch dated 28.01.2023 held that the certificate issued by the Naturo Electro Homeopathy Medicos of India is not valid and the person who possesses the same is not eligible to practice in any stream of the medicine. Further, the request of recognition of Naturo Electro Homeopathy



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Medicos of India was also rejected by the Government of India for medicine. No permission can be granted to practice in the system of Naturo Electro Homeopathy Medicos of India as, it is not recognized by the Government of India. Further, Naturo Electro Homeopathy Medicos of India is not a authenticated statutory body to provide permission or certification to run institution to impart education of Naturo Electro Homeopathy Medicos of India which as no legal affirmation and the certificates issued by it has no legal validity. Further, by the communication dated 12.02.2018, the Tamilnadu Government Medical Council imparted that NEHM as a system of medicine itself does not stand recognized by the Central Government of India. However, now the petitioner has stopped practicing any stream of medicine.

10. Further, the Hon'ble Supreme Court of India in SLP Civil No.23572/2009 and 29919/2011 dated 22.01.2012 held that there is no ban on medical practice of electro homeopathy and hence, the petitioners are qualified petitioners. Moreover, the Hon'ble Court delivered a final judgment in W.P.No.38388 of 2016 dated 28.11.2016 allowing to practice in the system without hindrances in view of the Government police decision dated 05.05.2010 and the order of the Hon'ble Apex Court dated 22.01.2015. Hence, there is no need to take permission from



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the Joint Director of Health Department.

WEB COPY 11. In this regard, it is relevant to extract the provision under

Section 17(3) of India Medical Council Act.

17.Nothing contained in sub-section (2) shall affect,

(a) the right of a practitioner of Indian Medicine enrolled on a State Register of Indian Medicine to practise Indian medicine in any State merely on the ground that, on the commencement of this Act, he does not possess a recognised medical qualification;

(b) the privileges (including the right to practise any system of medicine)conferred by or under any law relating to registration of practitioners of Indian medicine for the time being in force in any State on a practitioner of Indian medicine enrolled on a State Register of Indian Medicine;

(c) the right of a person to practise Indian medicine in a State in which, on the commencement of this Act, a State Register of Indian Medicine is not maintained, if, on such commencement, he has been practising Indian medicine for not less than five years;

(d) the rights conferred by or under the Indian Medical Council Act, 1956 (102 of 1956) [including the right to practise medicine as defined in clause(f) of Section 2 of the said Act], on persons possessing any qualifications included in the Schedules to the said Act.

(4) Any person who acts in contravention of any provision of sub-section (2) shall be punished with imprisonment for a term which may extend to one year,



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*or with fine which may extend to one thousand rupees, or
with both.*

Therefore, there is no offense made out as against the petitioner under I15(3) of Indian Medical Council Act, 1956.

12. In so far as the offence to attract the offense under Section 420 of IPC, it is relevant to extract the provisions under Section 420 of the Penal Code as follows :-

420. Cheating and dishonestly inducing delivery of property – Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

To constitute an offence under Section 420 of IPC, the ingredients are as follows :-

(i) A person must commit the offence of cheating under Section 415 and

(ii) The person cheated must be dishonestly induced to (a) deliver property to any person or (b) make, alter or destroy valuable security or anything signed or



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sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

13. It is also relevant to rely upon the judgment made by the Honourable Supreme Court of India in the case of *M/s. Indian Oil Corporation Vs. NEPC India Limited and others* reported in (2006) 6 *SCC 736*, held that the civil liability cannot be converted into criminal liability and it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.



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14. In the case of ***G.Sagar Suri Vs. State of Uttar Pradesh***

reported in ***2000 (2) SCC 636***, the Honourable Supreme Court of India

held as follows:-

“It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

15. It is relevant to rely upon the land mark Judgment of the Hon'ble Supreme Court of India in the case of ***State of Haryana and others Vs. Bhajanlal and others*** reported in ***1992 Supp (1) SCC 335***, in which, the Hon'ble Supreme Court of India has laid down the following categories of instances wherein inherent powers can be exercised in order to secure the ends of justice as follows:-

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;



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(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for



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wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

Therefore, there is no offense is made out as against the petitioner under Section 420 of IPC.

16. In view of the above discussion, the present complaint is a clear abuse of process of law and it cannot be sustained as against the petitioner and liable to be quashed.

17. Accordingly, the FIR registered in Cr.No.163 of 2023 on the file of the first respondent is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

21.04.2025

Vv

To

1. The Inspector of Police,
Vellakoil Police Station,
Tiruppur, Tiruppur District.
2. The Public Prosecutor, High Court of Madras,
Chennai.



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