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Crl.O.P.No.2733 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2026

CORAM:

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

Crl.O.P.No.2733 of 2023

Dr.A.Selladurai

... Petitioner

Vs.

1.State rep. By
Inspector of Police,
Rayakottai Police Station,
Krishnagiri District
crime No.287 of 2021
2.Dr.Rajeshkumar

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the charge sheet registered in CC.No.67 of 2022 (FR-3/2022) dated 06.01.2022 on the file of the Judicial Magistrate, Denkanikottai, Krishnagiri District.

For Petitioner : Mr.V.Prakash Babu

For Respondents : Mr.A.Gopinath,
Government Advocate(crl.side)

ORDER

This criminal original petition has been filed praying to quash the proceedings in CC.No.67 of 2022 (FR-3/2022) dated
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06.01.2022 on the file of the Judicial Magistrate, Denkanikottai,
Krishnagiri District.

2. The case of the prosecution is that the petitioner is practicing allopathy medicine without qualified degree in allopathy medicine and committed offence under Section 15(c) of Indian Medical Council Act and Section 27(b)(ii) of Drugs and Cosmetics Act, 1940. On perusal of records and also on the submissions made by the counsel on either side, it is revealed that the petitioner is a BHMS degree holder from Tamilnadu Dr.MGR Medical University, Chennai. He is also registered with Tamilnadu Homeopathy Medical Council. He is also a registered medical practitioner in Indian System of Medicine. As per circular dated 15.06.2010 issued by the Health and Family Welfare Department, Government of Tamilnadu, “the institutionally qualified practitioners of ayurveda, siddha and unani who are registered in Tamilnadu Board of Indian Medicine, Chennai are eligible to practice in the respective system with allopathy based on the training and teaching they had in the course. But they cannot exclusively practice allopathy medicine. As per the circular, the Director General of Police, Chennai was also directed to instruct the police officers in the Districts not to intervene with the practice of registered practitioners of siddha, ayurveda, unani and

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naturopathy who are registered in Tamilnadu Siddha Medical Council and Tamilnadu Board of Indian Medicine. On the complaint lodged by the second respondent, the first respondent registered FIR and filed final report with the above allegations for the offence under Section 15(c) of Indian Medical Council Act and Section 27(b)(ii) of Drugs and Cosmetics Act, 1940

3. The learned counsel for the petitioner vehemently contended that the first respondent has no jurisdiction at all to register any FIR since the alleged Sudhan Paramedical Institute is coming under the jurisdiction of Dharmapuri District. The petitioner's son is a registered medical practitioner under the allopathy medicine and he is running the hospital in the name of Sudhan Hospital at Royakottai, Krishnagiri District. On the complaint lodged by the second respondent, the first respondent registered FIR and conducted investigation in the hospital owned by one, Dr.S.Monish Sudhan and he is running the hospital in the name of Sudhan Hospitals at Royakottai, Krishnagiri District. On perusal of the rough sketch produced by the first respondent also revealed that the place of occurrence is Sudhan Hospitals and not paramedical institute. Sudhan Paramedical Institute is situated within the district of Dharmapuri. Therefore, Sudhan Hospitals has nothing to do with the allegations made

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against the petitioner. Further, the petitioner is practicing at Sudhan Paramedical Institute, Dharmapuri.

4. That apart, the very same issue was already dealt with by the Madurai Bench of this Court in Crl.OP.No.14345 of 2015 dated 24.10.2018, wherein it is held as follows:

7.The learned counsel appearing for the petitioner relied upon the judgment dated 02.11.2010 pronounced in a batch of Crl.O.P (MD) Nos.11994 to 11996, wherein, this Court has held as follows:

“10.The learned counsel appearing for the petitioners would cite the government order in G.O.Ms.248, Health and Family Welfare (IM 2-2), dated 08.09.2010, which is extracted here under for ready reference:

No.II(2)/HF/575/2010.- Whereas, the rights of practitioners of Indian System of Medicine are protected under Section 17(3)(b) of the Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970);

And Whereas, as per Section 2(1)(3) of the said Act, “Indian Medicine: means the system of Indian Medicine commonly known as Ashtang Ayurveda, Siddha or Unani Tibb whether supplemented or not by such modern advances, as the Central Council of Indian Medicine may declare by notification from time to time;

And Whereas, the Central Council of Indian Medicine in its Notification F.No.28-5/2004-AY (MM), dated the 19th



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May 2004, has clarified that the ward “Modern Advances” in clause (e) of Section 2(1) of the said Act as advances made in the various branches of modern scientific medicine in all its branches of internal medicine, surgery, gynaecology and obstetrics, anaesthesiology, diagnostic procedures and other technological innovation made from time to time and declare that the courses and curriculum conducted and recognized by the Central Council of Indian Medicine are supplemented with such modern advances;

And Whereas, the Central Council of Indian Medicine has improved and strengthened the syllabus of Indian Medicine by including subjects with regard to National Programmes like National Malaria Eradication programmes, Tuberculosis, Leprosy, Family Welfare Programme, Reproductive and Child Health Programme, Immunisation Programme, AIDS, Cancer, etc: Now, Therefore, under sub-clause (iii) of clause (ee) of Rule 2 of the Drugs and Cosmetics Rules, 1945, the Governor of Tamil Nadu hereby declares every registered medical practitioner holding the qualification specified in the second, third or fourth Schedule to the Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970) and Part III of the Schedule to the Tamil Nadu Siddha System of Medicine (Development and Registration of Practitioners) Act, 1997 (Tamil Nadu Act 34 of 1997) and registered in the Medical Register of the State maintained under the aforesaid Acts, as a person practicing the



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modern scientific system of medicine for the purposes of the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940).

11. He would also cite the circular memorandum dated 19.06.2010 issued by the Director General of Police, Chennai, which is also extracted here under for ready reference:

*R.O.C.No.14742/ Office of the
Cr.IV(2)/2010 Director General
of Police,
Chennai - 600 004.*

Dated:19.06.2010.

CIRCULAR MEMORANDUM

Sub : Indian System of Medicine - Police action against qualified Indian Medicine Doctors - Instructions - issued - Regarding.

Ref : Govt. Lt.No.22715/IM.II(2)/Health Family Welfare Department dt.15.06.2010 & 16.06.2010.

In the reference cited, the Government have stated that the Police Department in the course of their action against the Quacks has inspected the clinics run by the registered medical practitioners in Siddha, Ayurveda, Homeopathy and Unani and arrested some of them as if they had practiced Appopathy System of Medicine. The Government have informed that as per section 17(3) B of the Indian Medicine Central Council Act, 1970 the



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institutionally qualified practitioners of Siddha, Ayurveda and Unani Tibb Homeopathy are eligible to practice respective systems with modern scientific medicine including Surgery and Gynecology, Obstetrics, anaesthesiology, ENT, Ophthalmology etc. Based on the training and teaching.

2)Hence all Commissioners of Police/Inspectors General of Police, Deputy Inspectors General of Police and Superintendents of Police are requested to instruct the Police Officers in the Cities and Districts not to intervene with the practice of registered practitioners of Siddha, Ayurveda, Unani, Homeopathy and Naturopathy, who are registered in the Tamil Nadu Siddha Medical Council, Tamil Nadu Board of Indian Medicine and Tamil Nadu Homeopathy Medical Council. If any cases of the Doctors who are already under arrest may be reviewed with reference to the above clarification.

3) The letter from the Health & Family Welfare Department at 15.06.2010 is enclosed for perusal.

4)The instructions should be scrupulously followed. As such a cumulative reading of all the above government order and the communications would amply make the point clear that the police should not interfere with the practise of the siddha practitioners, who are having B.S.M.S. Qualification, either suo motu or based on some complaints given by public. If at all, there are persons, who are aggrieved by the conduct of such medical practitioners, they have to petition the Tamilnadu Siddha



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Medical Council or the Director of Health services and the interference of the police in such matters would demoralise the qualified practitioners of the Indian Systems of Medicine.

12.The learned Government Advocate (criminal side) would submit that there are certain cases, which were initiated at the instance of Medical Officer and Private individuals and the police is investigating with them.

13.I would like to point out that in the light of the above, the police personnel are not bound to interfere in such matters and such registrations of the cases and investigation are per se against law and that affects the morale of the qualified B.,S.M.S. Doctors and such police practice should be deprecated in unmistakable terms.”

The above said decision is squarely applies to the case of the present case. Further, when the Government Orders and the police Circular are there to practise the registered medical practitioners with modern scientific medicine, the petitioner cannot be prosecuted. Therefore, the FIR registered as against the petitioner has no legs to stand further.

5. The above judgment is squarely applicable to the case on hand. That apart, the first respondent has no jurisdiction to register FIR against the petitioner. Therefore, the entire proceedings cannot be sustained and the same is liable to be quashed.



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6. Accordingly, the entire impugned proceedings is quashed and this criminal original petition stands allowed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Judicial Magistrate, Denkanikottai, Krishnagiri District
- 2.State rep. By
Inspector of Police,
Rayakottai Police Station,
Krishnagiri District
- 3.The Public Prosecutor,
High Court of Madras

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