

**(2014) 11 MAD CK 0451**

**Madras High Court (Madurai Bench)**

**Case No:** Crl. O.P. (MD) No. 15659 of 2014 and M.P. (MD) No. 1 of 2014

Durai Pandi

APPELLANT

Vs

The State

RESPONDENT

**Date of Decision:** Nov. 10, 2014

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 154, 156(3), 200, 482
- Indian Medical Council Act, 1956 - Section 15(2)(b)
- Penal Code, 1860 (IPC) - Section 417, 420

**Hon'ble Judges:** P. Devadass, J

**Bench:** Single Bench

**Judgement**

@JUDGMENTTAG-ORDER

P. Devadass, J.

A-1 and A-2 in Crime No. 38 of 2014 came forward with this petition under Section 482 Cr.P.C., to quash the First Information Report.

2. According to the learned counsel for the petitioners, the first petitioner / A-1, just provided first aid along with the assistance of his wife / A-2, who is a staff nurse in a Government Hospital, to the second respondent's wife. Further, A-1 is having a Certificate to practice medicine. However, they were implicated in this case.

3. The learned counsel for the petitioners further contended that even taking the allegations as such in the F.I.R., it would not disclose the offences alleged in the First Information Report.

4. It has been contended by the learned counsel for the petitioners that A-1 is having the certificate issued by the Private Medical Practitioner's Association of India and he has been appreciated by many including Government Doctors.

5. On the other hand, the learned Government Advocate (Crl.Side), will submit that almost A-1 and A-2 have injected some colourful medicines into the body of the second respondent's wife through syringe. Ultimately, she became pale. She was rushed to the Vadimalayan Hospital in Madurai and she was treated, however, she died. The learned Government Advocate (Crl.Side) would submit that A-1 and A-2 are quacks and the certificate produced by them is fake. It is a great pity, the qualified doctors have supported these fakes.

6. Now the petitioners, have invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. If the Court is convinced that there is abuse of process of the Court by registering the FIR, this Court can step in, because under Section 482 Cr.P.C., this Court is expected "to do justice" and "undo injustice" (See State of Haryana vs. Bhajanlal, (1992 Supp. (1) 335). Let the heaven may fall, Courts will do justice.

7. While exercising its power under Section 482 Cr.P.C., this Court should not act like a Trial Court. During the FIR (nascent) stage of the case, there shall not be stifling of the prosecution itself when it discloses commission of certain cognizable offences. Conversely, when the FIR does not disclose any cognizable offence or there is no *prima facie* case, if a person is directed to face investigation and also undergo the ordeal of a criminal trial, then it is abuse of the process of the Court.

8. The second respondent/*de facto* complainant, has lodged a private complaint before the Jurisdictional Magistrate (see Section 200 Cr.PC.). Under Section 156(3), the learned Magistrate directed the police to investigate. Accordingly, the police registered the F.I.R. Under Section 154 Cr.P.C. as against A-1 and A-2 for offences under Sections 417, 420 IPC r/w Section 15(2)(b) of Indian Medical Council Act. It is an instance where a private complaint has become a police case.

9. It is alleged in the F.I.R., that on 16.11.2013, complainant Karuppasamy took his ailing wife Selvi, to A-1's house at a place in Theni District. A-1's wife A-2 is a staff nurse in a Government Hospital. A-1 and A-2 were alleged to have impersonated themselves as Doctors and injected into her body certain colourful medicines using syringe several times. Selvi became delirious. Her condition became precarious. She was rushed to Raghavendra Hospital in Madurai. Since her condition became very critical, she was taken to Vadimalayan Hospital in Madurai and her kidney failed to function. Ultimately, Selvi breathed her last.

10. In sum and substance, the allegations in the FIR is that A-1 and A-2 have committed impersonation by posing themselves as Doctors, committed cheating and also violated certain provisions of the Indian Medical Council Act. They disclose commission of the offences alleged. Thus, there is no occasion here to quash the F.I.R.

11. In the circumstances, this Criminal Original Petition is dismissed.

12. Liberty is given to the petitioners to raise the contentions before the Trial Court at the appropriate stage and time. Consequently, the connected miscellaneous petition is also dismissed.