NC: 2023:KHC-D:10986
CRL.P No. 104299 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 21ST DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 104299 OF 2022

BETWEEN:

DR. ASHOKA RAMRAO KULKARNI,
AGE. 56 YEARS, OCC. DOCTOR,
R/O. RAGHAVENDRA KRUPA,
CTS NO. 123/25B, KALYAN NAGAR,
1ST CROSS, NEAR RAILWAY STATION,
DHARWAD-580007.

... PETITIONER

(BY SRI. R.M. JAVED FOR
SRI. RAMAKRISHNA S. HEGDE, ADVOCATE)

AND:

STATE OF KARNATAKA,
THROUGH DRUG INSPECTOR-2,
DHARWAD CIRCLE, HUBLI-580001,
R/BY SPP HIGH COURT OF KARNATAKA,
DHARWAD-580011.

... RESPONDENT

(BY SRI. MADANMOHAN M. KHANNUR, AGA)

VISHAL NINGAPPA PATTIHAL

Digitally signed by VISHAL NINGAPPA PATTIHAL
Date: 2023.09.22 10:52:18 +0530

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C. SEEKING TO QUASH THE ENTIRE PROCEEDINGS INSTITUTED AGAINST THE PETITIONER/ACCUSED PENDING FILE BEFORE III ADDL. SENIOR CIVIL JUDGE AND CJM, DHARWAD IN CC NO.924/2018 FOR THE ALLEGED OFFENCES PUNISHABLE U/SEC. 18(c) 18A AND 22(1) (cca) OF THE DRUGS AND COSMETICS ACT 1940 AND RULE 1945 U/SEC. 27(b)(ii), 28 AND 22(3) OF THE DRUGS AND COSMETICS ACT, 1940.IA NO. 01/2023 FOR DISPENSATION.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court calling in question the proceedings in C.C. No.924/2018 registered for the offences punishable under Sections 18(c), 18A and 22(1)(cca) of the Drugs and Cosmetics Act, 1940 and Rule 1945 under Section 27(b)(ii), 28 and 22(3) of the Drugs and Cosmetics Act, 1940.

2. Learned counsel for the petitioner submits that the issue in the *lis* stands covered by the judgment rendered by this Court in the case of ***Dr.G.V.Devendrappa vs. The State of Karnataka and another*** in Crl.P. No.1359/2019, disposed off on 11.01.2022, wherein the identical issues have been raised and have been answered in favour of the petitioner therein. This Court has held as follows:

> *"The 2nd respondent lodged the first information report alleging that the petitioner was practicing Ayurvedic medicine without obtaining permission from the competent Authority and also without required*

qualification and further he was found administering with intravenous fluid on a patient. It was further alleged that the petitioner is duping public claiming that he is qualified to practice Ayurvedic medicine. The jurisdictional Magistrate registered the case against the petitioner for the offence punishable under Section 420 of IPC and Section 15(3) of the Indian Medical Council Act, 1956. The police after investigation filed the charge sheet against the petitioner for the offence alleged in the first information report. Hence, this petition.

2. Learned counsel for the petitioner would submit that the petitioner has got valid degree and has practiced in other States and eligible and qualified to practice Ayurvedic medicine. Hence, he submits that the impugned charge sheet lodged against the petitioner may be quashed.

3. Learned High Court Government Pleader appearing for the State would submit that the police conducted raid on the clinic belonging to the petitioner and seized the aliopathic medicines and the petitioner was

found administering with intravenous fluid on a patient. He further submits that the petitioner has not registered himself with the competent Authority in the state of Karnataka and not obtained permission for practicing Ayurvedic medicine. Hence, the charge sheet filed against the petitioner is in conformity with the provisions of the Indian Penal Code and Indian Medical Council Act, 1970.

4. I have considered the submissions made by the learned counsel for the parties.

5. The charge sheet is filed against the petitioner alleging that the petitioner was in possession of some allopathic medicines and he was found administering with intravenous fluid. However, the police have not examined the patient alleged to have been administered with intravenous fluid. Hence, the charge sheet filed against the petitioner alleging that the petitioner was in possession of allopathic medicines and he was found administering with intravenous fluid on a patient is not sustainable in law.

6. Admittedly, the petitioner is in possession of a degree to practice Ayurvedic

medicine. Though the degree was obtained out side the State, merely because the petitioner has not registered with the Karnataka Ayurvedic and Unani Practitioners Board, it cannot be said that the petitioner is not eligible and qualified to practice Ayurvedic medicine. A co-ordinate Bench of this Court in WP No.33635/2014 (DD 12.12.2014) filed by the petitioner has held that the resolution passed by the Karnataka Council that the degree obtained out side the State of Karnataka would not be registered by them is without any justification and the petitioner herein is entitled to practice in Karnataka by registering himself with the said Council. Hence, the charge sheet filed against the petitioner for the offence punishable under Section 420 of IPC and Section 15(3) of the Indian Medical Council Act, 1956 is not sustainable in law. Accordingly, I pass the following:"

3. Learned AGA would not dispute the position of law as is observed in the aforesaid case referred supra.

4. Therefore, for the reasons rendered therein, the subject petition also deserves to be succeed.

5. For the aforesaid reasons, the following:

ORDER

(i) The petition is allowed.

(ii) The impugned proceedings in C.C. No.924/2018 pending on the file of III Addl. Senior Civil Judge and CJM, Dharwad stands quashed.

Sd/-
JUDGE

Rsh / ct:bck
List No.: 2 Sl No.: 5