

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION No.9871 OF 2025

ORDER:

This Criminal Petition is filed by the petitioner-accused seeking to quash the proceedings against him in Crime No.300 of 2025 on the file of Sadasivpet Police Station, Sangareddy District, registered for the offences under Sections 318 and 319 of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS"), Section 20(ii) read with 22 of Telangana Medical Practitioners Registration (for short 'TMPR') Act, 1968 and Section 34 read with 54 of National Medical Commission Act, 2019 (for short 'NMCA').

2. The case of the prosecution is that the petitioner is a registered Homeopathy Medical Practitioner *vide* Registration No.287/H/2017. It is alleged that the petitioner is practicing Allopathy medicine, though he is qualified in BHMS and that the said act of practicing allopathy medicine attracts the offences under Sections 419 and 420 of IPC and Section 15(2) of the Indian Medical Council Act.

3. Heard the submissions of Sri T. Srujan Kumar Reddy, learned counsel for the petitioner, Sri Sama Sandeep Reddy, learned Standing Counsel for TMC for respondent No.2 and Sri Jithender

Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1 – State

4. Learned counsel for the petitioner has submitted that the allegations faced by the petitioner are that though he is a qualified Doctor in Homeopathy, he is prescribing the medicines under Allopathy. He referred to the order, dated 02.09.2025, of the Co-ordinate Bench in Criminal Petition No.7668 of 2025 and Batch, wherein the Co-ordinate Bench has quashed the proceedings against the petitioners therein.

5. The learned Standing Counsel for TMC has argued that a person who is qualified in Homeopathy, cannot prescribe the medicines under Allopathy and that it is a clear violation of the regulations and is punishable for the offences under Sections 318 and 319 of BNS, Section 20(ii) read with 22 of the TMPR Act and Section 34 read with 54 of the NMCA. He therefore, prayed to dismiss the Criminal Petition.

6. Perused the record.

7. Since the offences alleged are under Sections 318 and 319 of BNS, Section 20(ii) read with 22 of TMPR Act and Section 34 read

with 54 of NMCA, the said Sections are pertinent to be referred in this context:-

Sections 318 and 319 of BNS:

“318. Cheating –

- (1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat.
- (2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- (3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.
- (4) 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.

319. Cheating by personation –

- (1) A person is said to cheat by personation if he cheats by pretending to be some other person, or by knowingly substituting one person for or another, or representing that he or any other person is a person other than he or such other person really is.

- (2) Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.”

Section 20(ii) and 22 of TMPR Act:

“20. Notwithstanding anything to the contrary in any other law for the time being in force,-

- (i) xxx
- (ii) no person other than a registered practitioner shall, with effect from such date as may be specified by the Government by notification in this behalf, practice the modern scientific medicine or hold himself out, whether directly or by implication as practicing or as being prepared to so practice;

22. Whoever contravenes the provisions of clause(ii) of Section 20 shall be punishable on first conviction with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both, and on any subsequent, conviction with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.”

Sections 34 and 54 of NMCA:

“34. Bar to practice – (1) No person other than a person who is enrolled in the State Registrar or the National Register, as the case may be, shall –

- (a) be allowed to practice medicine as a qualified medical practitioner;
- (b) hold office as a physician or surgeon or any other office, by whatever name called, which is meant to be held by a physician or surgeon;
- (c) be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner;

(d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 (1 of 1872) on any matter relating to medicine:

Provided that the Commission shall submit a list of such medical professionals to the Central Government in such manner as may be prescribed:

Provided further that a foreign citizen who is enrolled in his country as a medical practitioner in accordance with the law regulating the registration of medical practitioners in that country may be permitted temporary registration in India for such period and in such manner as may be specified by the regulations.

(2) Any person who contravenes any of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees or with both.

54. Cognizance of offences – No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorized by the Commission or the Ethics and Medical Registration Board or a State Medical Council, as the case may be.”

8. Thus, under the NMCA and the TMPR Act, no person shall practice the modern medicine unless he is registered under the Act for the said purpose.

9. The petitioner counsel has placed heavy reliance on the judgment of the Constitution Bench of the Apex Court in ***Dr. Mukhtiar Chand and Others Vs. State of Punjab and Others***¹, wherein it was held in paragraph Nos.47 and 49 that;

¹ (1998) 7 Supreme Court Cases 579

(47):- A harmonious reading of Section 15 of the 1956 Act and Section 17 of the 1970 Act leads to the conclusion that there is no scope for a person enrolled on the State Register of Indian Medicine or the Central Register of Indian Medicine to practice modern scientific medicine in any of its branches unless that person is also enrolled on a State Medical Register within the meaning of the 1956 Act.

*(49):- The upshot of the above discussion is that Rule 2(ee) (iii) as effected from 14.05.1960 is valid and does not suffer from the vice of want of legislative competence and the notifications issued by the State Governments thereunder are not ultra vires the said Rule and are legal. However, after sub-section (2) in Section 15 of the 1956 Act occupied the field vide Central Act 24 of 1964 with effect from 16.06.1964, **the benefit of the said Rule and the notifications issued thereunder would be available only in those States where the privilege of such right to practice any system of medicine is conferred by the State Law under which practitioners of Indian medicine are registered in the State, which is for the time being in force.** The position with regard to medical practitioners of Indian medicine holding degrees in integrated courses is on the same plane inasmuch as if any State Act recognizes their qualification as sufficient for registration in the State Medical Register, the prohibition contained in Section 15(2)(b) of the 1956 Act will not apply.*

10. Therefore, even according to the decision of the Constitution Bench, a person qualified in a stream of medicine i.e., homeopathy cannot prescribe medicines pertaining to another stream unless it is conferred by a State Law which is in force. In Telangana State, the Telangana Medical Practitioners Registration Act is in force as discussed above. In simplest of terms, a person who is practicing homeopathy medicine cannot prescribe medicines under Allopathy.

11. In the present case the petitioner is alleged to have been registered practitioner for Homeopathy, however he has been found to be prescribing allopathy medicines as per the averments in the

complaint. Hence, there is a prima-facie case made out against the petitioner and the investigation is still in progress.

12. The contention of the petitioner counsel is that the prosecution needs to be launched by the Commissioner of Ayush and that the present case is registered when the complaint is lodged by the Registrar of the Telangana Medical Council, which is not tenable in the eye of law and that there is a clear violation of Rule-8(7) of the Andhra Pradesh Medical Council (Compulsory Rural Medical Service and Compulsory Government Service-Renewal of Registration, visiting or inspecting the Hospital or Nursing Home or Institution) Rules, 2013 (for short, 'the Rules') issued vide G.O.Ms.No.129, dated 08.08.2013, where the de-facto complainant failed to follow the procedure contemplated in Rule-8(7) of the Rules, which is as under:-

“8(7)-Whenever the Commissioner, AYUSH is in receipt of information from the Council that a Medical Practitioner of Ayurveda, Siddha, Unani, Homeopathy and Yoga or Naturopathy is found practicing Modern Medicine or prescribing drugs of Modern Medicine, he shall initiate appropriate action against such practitioner in terms of Government Memo.No.8914/L2/97-1, dated 17.03.1997 appended to those rules as annexure-II. The Commissioner, AYUSH shall initiate appropriate action within thirty days on receipt of such information from the Council and intimate the action taken thereon to the Council.”

13. A bare perusal of Rule 8(7) of the Rules discloses that the Ayush Commissioner shall initiate appropriate action against such practitioner in terms of G.O.Ms.No.8914/L2/97-1, dated 17.03.1997. The G.O.Ms.No.8914/L2/97-1, dated 17.03.1997, is a Circular Memorandum issued by the Government of Andhra Pradesh, Health, Medical and Family Welfare (L) Department which reads as follows:-

1. It is to inform that the Supreme Court of India has given a decision in the case cited above prohibiting the Medical Practitioners from practicing and prescribing drugs in other system of medicine in which they are not registered.

2. It implies that a Medical Practitioner who is registered under Allopathic system of medicine is prohibited from practicing and prescribing drugs in other systems of medicine like Ayurveda, Homeopathy, Unani etc.,

3. Similarly, the Medical Practitioners in Homeopathy, Ayurveda, and Unani etc., should confine their practice only to the systems of medicine in which they are registered and should not practice and prescribe drugs in any other system of medicine in which they are not registered.

4. Thus, the sale of Allopathic drugs to the Medical Practitioners who are not registered in the Allopathic system of medicine is an offence under the provisions of Drugs and Cosmetics Act. Similarly, sale of Allopathic drugs to a patient on the prescription of a Medical Practitioner who is not registered in the Allopathic system of medicine is also an offence under the provisions of Drugs and Cosmetics Act.

5. Likewise, drugs belonging to other systems of medicine like Ayurveda, Unani Homeopathy etc., should not be sold either to the Medical Practitioners or to the patients on the prescriptions of Medical Practitioners who are not registered in the respective systems of medicines.

14. Thus, it is mentioned in the above said Circular that the person who is practicing homeopathy cannot prescribe medicines in any other system in which they are not registered. It is pertinent to take note of Rule-8(1) to (10) of the Rules in its entirety, which is extracted for the sake of reference:-

Rule-8(1) The Chairman of the Council may constitute one or more Committees each consisting of two or three members.

(2) The Committee or Committees so constituted shall perform the following functions, namely;

(a) Inquire suo moto or on a petition presented to the Chairman.

(b) Visit or inspect, either by giving a notice or surprisingly, any hospital or Nursing home or institution or places where unethical practices are alleged to be in vogue.

(c) Visit or inspect either any hospital or nursing home or institution or place where un-qualified persons or quacks or doctors who do not belong to Modern System of Scientific Medicine but are practicing modern medicine and are prescribing drugs of modern medicine.

(d) Visit or inspect any hospital or nursing home or institution or place where the medical practitioners whose names were removed from the register are alleged to be continuing to practice without surrendering the certificate of registration without sufficient cause.

(3) Whenever information, is received that a Medical Practitioner has been indulged in unethical practices which are unbecoming on the part of any Medical Practitioner, the Registrar shall make an abstract of such information.

(4) Any act of the Medical Practitioner shall be construed as unethical, when he or she has indulged in any act which is included in chapter 6 of Indian Medical Council (Professional Conduct, etiquette and ethics) Regulations-2002 or any act which in the opinion of the

Council is unbecoming on the part of a practitioner or modern scientific medicine.

(5) Where the information in question relating to practice of Modern Scientific Medicine or prescribing drugs of modern medicine by a qualified practitioner of other systems of medicine, such as Ayurvedic, Homeopathy, Unani, Naturopathy or Siddha, the Registrar shall make an abstract of such information.

(6) The abstract and where a complaint has been lodged, the complaint and all other documents bearing on the case shall be submitted by the Registrar to the Chairman, who may if thinks fit, instruct the Registrar to furnish the institution concerned with a copy of the complaint and other documents and invite the head of such institution by means of a registered letter to submit any explanation he may have to offer within a period of ten clear working days.

(7) Whenever the Commissioner, AYUSH is in receipt of information from the Council that a Medical Practitioner of Ayurveda, Siddha, Unani, Homeopathy and Yoga or naturopathy is found practicing Modern Medicine or prescribing drugs of Modern Medicine, he shall initiate appropriate action against such practitioner in terms of Government Memo.No.8914/L2/97-1, dated 17.03.1997 appended to those rules as annexure-II. The Commissioner, AYUSH shall initiate appropriate action within thirty days on receipt of such information from the Council and intimate the action taken thereon to the Council.

(8) Whenever any information is received or evidence is brought before any Committee constituted by the Council under clause (iv) of Section 20 of the Act that drugs of Modern Medicine are dispensed by Druggists or Chemists on the prescription of practitioners of other systems of medicine, the Council on receipt of such report from the Committee shall communicate the same to the Drug Inspector or Assistant Director of Drug Control Administration with a request to take appropriate action on the Druggist or Chemist concerned as per the provisions of Drugs and Cosmetics Act, 1940 and the Rules made thereunder. If the council come to the conclusion that no action has been initiated by the Drugs Inspector or the Assistant Director, Drug Control Administration within a period of thirty days, the Chairman of the Council may instruct the Registrar to furnish the details to Director General, Drugs Control Administration with a copy of information

received in this respect or copy of complaint and other documents and request him to issue necessary instructions to the Drug Inspector or Assistant Director concerned.

(9) Where, in any clinic or hospital or nursing home or other institution or place where un-qualified persons or quacks are found practicing modern system or Scientific Medicine or prescribing drugs of modern medicine, criminal proceedings will be initiated by making a complaint to the Station House Officer concerned as per Section 22 of the Act.

(10) Where it is found that the Station House Officer has not acted upon the complaint-petition of the Council, the Chairman, APMC who may think fit, instruct the Registrar to furnish the information together with other documents on record to the Superintendent of Police of the District Concerned or the Sub-Divisional Police Officer with a request to instruct the Station House Officer to initiate appropriate action in accordance with the Law.

15. A conjoint perusal of Rule-8(9) and (10) of the Rules would reveal that the Registrar is authorized to lodge a complaint as per Section 22 of the TMPR Act. Therefore, in the present case, the complaint is lodged by the Registrar of Telangana Medical Council, which is very much inconsonance with Sub-Rules (9) and (10) of Rule-8 of the Rules.

16. But, under Section 54 of NMCA, no Court shall take cognizance of an offence except upon a complaint in writing by an officer authorized by the Commission or the Ethics and Medical Registration Board or a State Medical Council. Thus, it has to be a

complaint made in writing and the word 'complaint' is defined under Section 2(d) of Cr.P.C., which reads as follows:

“2. Definitions –

- (a) xxx
- (b) xxx
- (c) xxx
- (d) “Complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.”

17. Therefore, a complaint in writing has to be lodged before the competent Court by the authorized officer and it does not include a police officer. In the present case, the complaint is filed before the Station House Officer by the Registrar of the State Medical Council. Under Section 54 of the NMCA, an officer authorized by the State Medical Council can file the complaint. Thus, there is nothing wrong if the Registrar files the complaint, but the said complaint has to be made to the concerned Court and not before the Station House Officer. Therefore, there is a lapse in the procedure adopted by the concerned authority and the said lapse would affect the case in such a way that cognizance of the offence cannot be taken by the Court.

18. As discussed supra, Sub-Rules 8, 9 and 10 of Rule 8 of the Rules empowers the Registrar to initiate the criminal proceedings by making a complaint to the Station House Officer and when the Station House Officer does not act upon the same, he shall furnish the information along with other documents to the Superintendent of Police to instruct the Station House Officer to initiate appropriate action. As per Section 54 of the NMCA, an authorized person under the Commission or the Ethics and Medical Registration Board or the State Medical Council can initiate the proceedings. Thus, the Registrar is competent to initiate the proceedings i.e., he can file a complaint, but it has to be made in writing before the concerned Court.

19. In the present case, the Registrar has filed the complaint before the Station House Officer. Hence, no Court can take cognizance of the said complaint. Therefore, continuation of proceedings in the present case against the petitioner is abuse of process of law.

20. Therefore, the proceedings in Crime No.300 of 2025 on the file of Sadasivpet Police Station, Sangareddy District, are hereby quashed against the petitioner herein. However, it is made clear that the authorized officer is at liberty to initiate criminal proceedings

strictly in accordance with law i.e., in accordance with Section 54 of the NMCA.

21. Accordingly, the Criminal Petition is disposed of.

Miscellaneous applications pending, if any, shall stand closed.

JUSTICE TIRUMALA DEVI EADA

Date: 29.10.2025
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