

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION NOS.7668, 7669 & 7691 of 2025

COMMON ORDER:

I have heard Mr. B. Chandrasen Reddy, learned Senior Counsel argued on behalf of Mr. B.Vamsidhar Reddy, learned counsel for the petitioners, Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor, appearing on behalf of respondent No.1-State and Mr. Sama Sandheep Reddy, learned Standing Counsel for Telangana State Medical Council appearing on behalf of respondent No.2.

2. Since the contentions raised, the issues requiring consideration, and the questions of law involved in these matters are substantially analogous, all the petitions were heard together and are accordingly being disposed of by this common order.

3. **Criminal Petition No.7669 of 2025** is filed under Section 528 of *Bharatiya Nagarik Suraksha Sanhita, 2023* (for short 'the BNSS') for quashment of proceedings in Crime No.393 of 2025 on the file of the Police Station, KPHB Colony, Cyberabad District against the petitioner/accused.

Criminal Petition No.7691 of 2025 is filed under Section 528 of the BNSS for quashment of proceedings in Crime No.222 of 2025 on the

file of the Police Station, Sangareddy Town, Sangareddy District against the petitioner/accused.

Criminal Petition No.7668 of 2025 is filed under Section 528 of the BNSS, 2023 for quashment of proceedings in Crime No.342 of 2025 on the file of the Police Station, Sangareddy Rural, Sangareddy District against the petitioner/accused.

4. The brief facts of the case are that on 10.05.2025, the Respondent No.2/Telangana Medical Council (for short 'theTMC')/*de facto* complainant conducted a surprise inspection of the clinics run by the petitioners/accused in Cyberabad and Sangareddy. It was alleged that the petitioners were practicing allopathic medicine without possessing the requisite qualifications. Based on the inspection, the TMC, through its Registrar and Vigilance Officer, lodged a complaint alleging that the petitioners were administering IV fluids, injections, and allopathic drugs in violation of Rule 8(2)(9) of the Andhra Pradesh Medical Council Rules, 2013 (APMCR); Section 20(ii) read with Telangana Medical Practitioners Registration Act, 1968(TMPR Act); Sections 34 of the National Medical Commission Act (NMCA); and Sections 318(4) and 319(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS). Consequently, the related crimes were registered against the petitioners.

5. Learned Senior Counsel appearing for the petitioners contended that the registration of crimes without conducting any preliminary enquiry

is *ex facie* an abuse of process. He further submitted that even as per the contents of the complaint, the petitioners are duly qualified BAMS degree holders, having valid registration with the Government of Telangana, Board of Indian Medicine, and the National Commission for Indian System of Medicine Act, 2020 (NCISM Act, 2020). Their clinics are duly registered, and they have undergone internships at Government Hospitals, thereby gaining practical clinical experience. It was emphasized that the petitioners have never represented themselves as MBBS doctors. Rather, they are engaged in legally permissible medical practice which stands protected under Section 17(3)(b) of the Indian Medicine Central Council Act, 1970 (IMCC Act, 1970).

Learned Counsel further relied on the Notification issued by the Central Council of Indian Medicine (CCIM) in 1996 and the Ayush Memorandum dated 30.03.2017, both of which permitted Ayurvedic practitioners to practice modern scientific medicine to a limited extent. He also contended that no complaint has been filed by an authorized officer under Section 50 of the NCISM Act, 2020, and that the TMC has no *suo motu* power under Rule 8(7) of the Andhra Pradesh Medical Council Rules, 2013 (APMC Rules). Thus, there exists a clear procedural irregularity. Moreover, the complaint lacks particulars regarding prescriptions or instances of impersonation, which are necessary to invoke Sections 318 and 319 of the BNS. It was further argued that the complaint is motivated, intended to suppress Ayush practitioners, and to

monopolize the practice of allopathic medicine. Accordingly, the registration of crimes against the petitioners is illegal, baseless, and motivated.

Learned Senior Counsel also pointed out that a similar issue is pending before the Hon'ble Supreme Court in *All India Indian Medicine Graduates Association v. Delhi Medical Association & Others* (SLP (C) No. 26145/2016), where an interim direction has been issued restraining coercive action against persons practicing the integrated system of medicine pursuant to degrees or diplomas awarded by recognized Universities. Reliance was also placed on the decisions in (i) *S. Arockia Vargheese v. Sub-Inspector of Police, Sudhamalli Police Station* – 2010 SCC OnLine Mad 5560; (ii) *T.N. Siddha Medical Graduates' Association v. Indian Medical Association* – 2011 SCC OnLine Mad 217; and (iii) *Dr. Mukhtiar Chand and Others v. State of Punjab and Others* – (1998) 7 SCC 579. On these grounds, it was prayed that the proceedings be quashed.

6. Learned counsel appearing for respondent No. 2/TMC refuted the submissions of the petitioners. He argued that the petitioners, though not qualified in allopathic medicine, were nonetheless practicing and prescribing allopathic drugs in their clinics, which constitutes an illegal practice amounting to quackery. It was further contended that the legal position is well settled that persons holding qualifications in Indian systems of medicine are not entitled to practice or prescribe allopathic

medicine. The TMC, being the competent authority, is empowered to initiate prosecution. The petitioners' argument that respondent No. 2 ought to have reported the matter to the National Commission for Indian System of Medicine, which alone could act under the NCISM Act, was termed implausible, since the restriction under Section 50 of the Act applies only to complaints under the NCISM Act itself, and does not curtail the TMC's authority to lodge complaints under other applicable laws. It was further argued that the privilege available to registered practitioners under the Telangana Medical Practitioners Registration Act, 1968 amended in 2013(TMPR Act) extends only to the field of medicine in which they are qualified, and cannot be stretched to permit them to practice allopathy.

Counsel relied upon the decision of the Three-Judge Bench of the Hon'ble Supreme Court in *Dr. Mukhtiar Chand and others v. The State of Punjab – (1998) 7 SCC 579*, as well as a judgment of the Delhi High Court, in support of this contention. As the investigation is still at a nascent stage, it was submitted that any interference would prejudice the process of law. Accordingly, dismissal of the petitions was prayed for.

7. Learned Additional Public Prosecutor adopted the submissions advanced by counsel for respondent No. 2, and further asserted that the TMC is duly authorized under the Medical Council Rules to initiate the proceedings. Hence, dismissal of the petitions was sought.

8. I have perused the materials on record and considered the submissions of the learned counsel.

9. Admittedly the petitioners asserts that they are qualified BAMS graduates and were registered under Telangana Board of Indian Medicine (TBIM) and the National Commission for Indian System of Medicine Act, 2020 (NCISM Act). The preliminary contest raised by the petitioners is that the respondent No.2/TMC has no authority to initiate prosecution by lodging a police report.

10. The petitioners' prime contest is that as per Rule 8 (7) of APMC Rules the allegations against the petitioners should have been placed before the Commissioner of Ayush, who in turn would consider and initiate the proceedings and directly lodging police report by the Respondent No.2/TMC is against the prescribed mandatory procedure. Further citing the authority in *S.Arockia Vargheese v. Sub Inspector of Police, Sudhamalli Police Station – 2010 SCC OnLine Mad 5560* pleaded that the Hon'ble Supreme Court directed the police not to interfere with the practice 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 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. Further referred to *Tamilnadu State Medical Graduates Association* (supra) and pleaded that the High Court of Madras in this matter considering various aspects observed that medical professionals must be saved from unauthorised complaints of negligence or malpractices and safeguard should be made. No blanket permissions can be issued to the police to arrest or to prosecute so called quacks identified by the Indian Medical Association.

11. In this regard, the stand of the respondent No.2 is that medical practice being State subject importing the prescriptions in the state of Tamilnadu is not proper and lodging of police report by the respondent No.2/TMC which is statutory body and it is permissible under Rule 8 (9) of the APMC Rules.

12. Before proceeding further to examine the action to be taken under TMPR Act and APMC Rules, it would be appropriate to consider the powers and functions of the committees under medical council set out under Rule 8 of the APMC Rules. The prescriptions are summarized as here under;

(a) Constitution of Committees:

The Chairman may constitute committees consisting of 2–3 members to conduct inquiries and inspections. These Committees may inquire *suo motu* or on petitions, may inspect hospitals,

nursing homes, or institutions, with or without notice, where unethical practices are alleged, unqualified persons, quacks, or non-allopathic practitioners are found practicing modern medicine or prescribing modern drugs, de-registered practitioners continue practice without surrendering their registration certificates.

(b) Complaints Handling:

The Registrar prepares abstracts of information on unethical practices, as defined under Chapter VI of the *Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002*. Similar procedures apply where practitioners of Ayurveda, Homeopathy, Unani, Naturopathy, or Siddha are found practicing modern medicine. Complaints and supporting documents may be forwarded to concerned institutions for explanation.

(c) Referral to Competent Authorities:

Non-allopathic practitioners practicing modern medicine, action must be initiated by the Commissioner, AYUSH, within 30 days, in terms of Government Memo No. 8914/L2/97-1 dated 17-03-1997. Similarly, chemists dispensing modern drugs on prescriptions of non-allopathic practitioners, the Council refers the matter to the Drugs Inspector/Drug Control Authority under the *Drugs and Cosmetics Act, 1940*. If no action is taken within 30 days, the

matter is escalated to the Director General, Drugs Control Administration.

(d) Proceedings Against Quacks:

Where unqualified persons or quacks are found practicing modern medicine, the Council must lodge a complaint with the local police under Section 22 of the Act. If the police fail to act, the matter shall be escalated to the Superintendent of Police or Sub-Divisional Police Officer for enforcement.

13. A careful reading of Rule 8 of the Andhra Pradesh Medical Council Rules, 2013 reveals that it contemplates five distinct situations, each with a corresponding legal mechanism for enforcement.

First, where *unqualified persons or quacks*, having no recognized medical qualification, are found to be practicing modern medicine. In such cases, the *Medical Council* is required to lodge a complaint with the local police under Section 22 of the Andhra Pradesh Medical Practitioners Act, 1968, together with the Rules framed there under. If the police fail to act, the matter must be escalated to the Superintendent of Police or the Sub-Divisional Police Officer for enforcement.

Second, where *de-registered practitioners of modern medicine continue to practice* without surrendering their registration certificates. Such conduct constitutes professional misconduct and attracts

disciplinary action under Rule 8(2)(c) of the APMC Rules read with the Code of Medical Ethics, 2002, by the *Medical Council*. Where the continued practice amounts to illegal medical practice, police intervention and penal action may also be warranted.

Third, where *registered practitioners of modern medicine engage in unethical practices* in violation of the prescribed professional code of conduct. In this scenario, the *Medical Council*, upon conducting inquiry and inspection, is empowered to initiate disciplinary proceedings, including suspension or removal from the register, under the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. Depending on the nature of the violation, the matter may also be referred to the concerned institution for explanation or, if the misconduct amounts to a criminal offence, escalated to the police.

Fourth, where *non-allopathic practitioners, such as those qualified in Ayurveda, Homeopathy, Unani, Naturopathy, or Siddha are found to be practicing modern medicine* in contravention of law. In such cases, *upon receipt of information from the Medical Council*, the Commissioner, AYUSH, is mandated to initiate appropriate administrative and regulatory action under Government Memo No. 8914/L2/97-1, dated 17-03-1997. The Commissioner is bound to act within thirty days, and failure to do so is open to administrative challenge.

Fifth, where *chemists dispense modern drugs* on the basis of prescriptions issued by non-allopathic practitioners. In such cases, based on the report of the Medical Council, proceedings are to be initiated by the Drugs Inspector or Drugs Control Authority under the Drugs and Cosmetics Act, 1940, which may include both regulatory and criminal measures depending on the violation. If no action is taken within thirty days, the matter is to be escalated to the Director General, Drugs Control Administration.

14. Further, the Three Judge Bench of the Hon'ble Supreme Court in *Dr. Mukhtiar Chand (supra)* while considering a similar context, whether a person qualified the integrity course of Ayurvedic and Unani from universities are entitled to practice and prescribe allopathic medicine has held in para Nos.20, 35, 38, 40 and 47 as follows:

"20. It may be noted that since 'level, medical and other professions' is them 26 of List III [Concurrent List] of Seventh Schedule to our Constitution, both the State Legislatures and the Parliament have enacted on the subject of medical profession. Now all these systems of medicines are governed by Central Acts. The Indian Medical Council Act, 1956 (which has repealed 1933 Act) regulates modern system of medicine; the Indian Medicine Central Council Act, 1970 regulates Indian medicine and The Homeopathic Central Council Act, 1973 regulates practice of Homeopathic medicine. Here we are not concerned with Homeopaths in regard to practice of allopathic medicine by a homeopath, this Court concluded thus, in Poonam Verma vs. Ashwin Patel, (1996) 4 SCC 332:

"A person who does not have knowledge of a particular system of medicine but practices in that system is a quack and a mere pretender to medical knowledge or skill, or to put it differently, a charlatan."

35. Points 2 and 3 have some over lapping so it will be convenient to discuss them together. The right to practice any profession or to carry on any occupation trade or business in no doubt a fundamental right guaranteed under Article 19(1)(g) of the Constitution of India. But that right is subject to any law relating to the professional or technical qualifications necessary for practicing any profession or carrying on any occupation or trade or business enacted under clause 6 of Article 19. The regulatory measures on the exercise of this right both with regard to standard of professional qualifications and professional conduct have been applied keeping in view not only the right of the medical practitioners but also the right to life and proper health care of persons who need medical care and treatment. There can, therefore, be no compromise on the professional standards of medical practitioners. With regard to ensuring professional standards required to practice allopathic medicine the 1956 Act. was passed which deals also with reconstitution of the Medical Register. Thus, for the first time an Indian Medical Register for the whole of India came to be maintained from 1956. In the 1956 Act, Section 2(f) defines "medicine" to mean 'modern scientific medicine' in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery and the expression recognized medical qualification is defined in Section 2(h) to mean any of the medical qualifications included in the Schedules to the Act.

38. For the present discussion, the germane provision is Section 15(2)(b) of the 1956 Act which prohibits all persons from practicing modern scientific medicine in all its branches in any State except a medical practitioner enrolled on a State Medical Register. There are two types of registration as for the State Medical Register is concerned. The first is under Section 25, provisional registration for the purposes of training in the approved institution and the second is registration under Section 15(1). The third category of registration is in the Indian Medical Register' which the Council is enjoined to maintain under Section 21 for which recognised medical qualification is a prerequisite. The privileges of persons who are enrolled on the Indian Medical Register are mentioned in Section 27 and include right to practice as medical practitioner in any part of India. 'State Medical Register' in contra-distinction to 'Indian Medical Register', is maintained by the State Medical Council which is not constituted under 1956 Act but is constituted under any law for the time being in force in any State; so also a State Medical Register is maintained not under 1956 Act but under any law for the time being in force in any State regulating the registration of practitioners of

medicine. It is thus possible that in any State, the law relating to registration of practitioners of modern scientific medicine may enable a person to be enrolled on the basis of the qualifications other than the 'recognised medical qualification' which is a pre-requisite only for being enrolled on Indian Medical Register but not for registration in a State Medical register. Even under the 1956 Act, 'recognized medical qualification' is sufficient for that purpose. That does not mean that it is indispensably essential. Persons holding 'recognised medical qualification' cannot be denied registration in any State Medical Register. But the same cannot be insisted upon for registration on a State Medical Register. However, a person registered in a State Medical Register cannot be enrolled on Indian Medical Register unless he possesses 'recognized medical qualification'. This follows from a combined reading of Sections 15(1), 21(1) and 23. So by virtue of such qualifications as prescribed in a State Act and on being registered in a State Medical Register, a person will be entitled to practice allopathic medicine under Section 15(2)(b) of the 1956 Act.

40. We have perused the Bombay Medical Act, 1912, Bihar and Orissa Medical Act, 1916, Punjab Medical Registration Act 1916, Rajasthan Medical Act 1952 and Maharashtra Medical Council Act, 1965 which regulate maintenance of registers of medical practitioners and the entitlement to practice allopathic medicine. Under those Acts State Medical Registers are maintained. Section 7(3) of the Bombay Act of 1912, enabled the Provincial Government, after consulting the State medical council, to permit the registration of any person who was actually practicing medicine in Bombay Presidency before 25th June, 1912, this seems to be the only case of registration without requisite qualification. Further persons possessing Ayurvedya Visharad of the Tilak Maharashtra Vidyapeeth of Poona, obtained during the years 1921-1935 (which was included in the Schedule to that Act on 31st. September, 1939 pursuant to Notification No. 3020/33 dated 12.9.1939) were entitled to be registered in the State Medical Register; this is the only Ayurvedic qualification on the basis of which persons were eligible to be registered on the State Medical Register in Maharashtra; further with regard to rural areas, the prohibition to practice allopathic medicine under that Act did not apply provided a person had commenced practice in any village in the rural area prior to 1912. None of the petitioners has claimed benefit of these exceptions. We could not find any other provision which enables a person, other than those possessing qualification prescribed in the Schedules to the Acts, to be registered on the State Medical Register to practice allopathic

medicine. So it can be observed that if any State law relating to registration of Medical practitioners permits practice of allopathic medicine on the basis of degree in integrated medicines, the bar in Section 15(2)(b) of the 1956 Act will not apply.

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

15. In the light of the above legal frame work and settled position of law it is clear that the registered practitioners of Indian Medicine are not entitled to prescribe allopathic medicine and such practice is impermissible. Nonetheless, Rule 8 of the APMC Rules prescribes that *in the cases involving unqualified persons or quacks i.e., individuals without any recognized qualification in medicine and not registered, the Medical Council is bound to file a criminal complaint with the police. Whereas, in the present matter on hand, the allegation of the Respondent No.2/TMC is that the petitioners who are registered practitioners under the system of Indian Medicine are prescribing modern system of medicine. This imputation is taken as it is, the same would not qualify the category of quackery, but rather under the fourth situation identified above, namely, non-allopathic practitioners practicing modern medicine. As such, the prescribed course of action under the Telangana Medical Practitioners Registration Act, 1968, and the Andhra Pradesh Medical council rules should be upon information, the Commissioner, AYUSH is the competent*

authority to take up further course of action. In effect, it shall be held that the Respondent No.2/TMC directly lodging police report for prosecution is impermissible under the prescribed Rules.

16. The other allegation imputation against the petitioners is under sections 34 of the National Medical Commissions Act, 2019(NMC Act).

34. Bar to practice.—(1) No person other than a person who is enrolled in the State Register 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.

17. Section 31 of the NMC Act prescribes National Register and State Register of modern Scientific System of Medicine and Section 32(5) the National Commission for Indian System of Medicines Act, 2020(NCISM

Act), prescribes that every State Medical Council shall maintain and regularly update the State Register in the specified electronic format and supply a physical copy of the same to the Board of Ethics and Registration for Indian System of Medicine within three months of the commencement of this Act. This position is *prima facie* making clear that the Medical Council has to maintain distinct registers at National and State level for the practitioners of modern scientific medicine and Indian System of Medicine.

18. Thus the privileges pointed to by the petitioners shall also require examination and whether the privileges and the statute would come to the aid of petitioners' case is an aspect to be considered. The reference of the petitioners that the notifications of Central Government of Indian Medicine, office memorandum which prescribe that the allopathic medicine to the extent of training received by them in modern medicine would insulate the petitioners from prescribing/practicing allopathic system of medicine would be another aspect which requires examination.

19. Howsoever, Section 54 of the NMC Act requires mention here. This provision prescribes that, no Court may take cognizance of offences punishable under the Act except upon a written complaint made by an *authorized officer* of the National Medical Commission, the *Ethics and Medical Registration Board*, or the relevant *State Medical Council*. As noted earlier the prosecution proceedings were initiated upon the police

report of the Respondent No.2/TMC. For this foundational defect, this accusation cannot be maintained.

20. The other allegation against the petitioners is under sections 318 (4) and 319 (2) of the *Bharatiya Nyaya Samhita, 2013* (BNS).

To constitute an offence of Cheating, a person commit an act of deception, and fraudulent or dishonest inducement of another person, to deliver property, or to consent to the retention of property, or to do or omit an act that he would not have done or omitted but for the deception, and such act or omission causes, or is likely to cause, damage or harm to body, mind, reputation, or property. *Dishonest concealment of facts* also amounts to deception.

Further, Cheating by personation is an act to pretends to be another person, or knowingly substitutes one person for another, or misrepresents his own or another's identity.

The primary right to lodge a police report lies with the victim/complainant who has been deceived (or whose property/security has been affected). However, since cheating and cheating by personation are cognizable offences, any person with knowledge of the offence may set the criminal law in motion by filing an FIR, upon which the police are bound to investigate. However the police report must indicate the particulars and the *prima facie* case. In this view, initiation of proceedings by the Respondent No.2/TMC is *ex facie* acceptable, in the present police report, the particulars of the persons who are deceived and the manner of

impersonation are conspicuously absent. In the circumstances, the allegation against the petitioners *per se* that they have prescribed modern scientific medicine by holding registration under Indian system of medicine alone, without some particular, would fall short in making out a *prima facie* case of cheating and impersonation.

21. It is settled position that though under Section 528 of BNSS this Court is empowered to quash the first information report to prevent the abuse of process of law or to secure ends of justice, this jurisdiction shall be exercised with care and caution. It has been held in *State of Haryana and others v. Ch. Bhajan Lal and others* -1992 AIR 604 and *M/s Neeharika, Infrastructure Pvt. v. The State of Maharashtra* - AIR 2021 SC 1918, it has been held that for quashment of first information report the Court must satisfy that the F.I.R. or criminal proceedings is frivolous, vexatious or oppressive or abuse of process of Court and quashment of the F.I.R. or criminal proceedings is necessary to secure ends of justice. Further the aspects whether the F.I.R. was filed with *mala fide* intention or to harass or intimidate the accused; filed for political or personal vendetta; F.I.R. did not disclose any offence and no *prima facie* case is against the accused, this can be exercised. It is also well settled that the Court shall not conduct a detailed enquiry but contention of injustice or abuse of process of legal process.

22. In the above noted findings, for deviating the prescribed procedure and absence of the material particulars in pointing cheating and impersonation, the proceedings initiated against the petitioners in the respective crimes are liable to be and are accordingly quashed. However the rights of the Respondent No.2 are expressly reserved to proceed against the petitioners as per the prescriptions under relevant provisions and may seek prosecution with requisite particulars/details.

Accordingly, Criminal Petition Nos.7668, 7669 and 7691 of 2025 are allowed.

Date:02.09.2025

ccm

N.TUKARAMJI, J