

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.R.R No.108 of 2015 (O&M)
Date of Decision : 05.02.2015**

Mishra Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. A.A. Pathak, Advocate
for the petitioner.

Mr. A.P.S. Gill, A.A.G., Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a revision challenging the charge framed against the petitioner by order dated 20.11.2014.

The petitioner was stated to be a registered medical practitioner who was arrested with 5120 pills what was later discovered to be Diphenoxilate Hydrochloride where percentage of psychotropic substance was 2.1 mg per tablet.

The precise argument of learned counsel for the petitioner is

that the recovered material is a manufactured drug and is therefore not covered under the N.D.P.S. Act.

To my mind, this argument is completely misconceived. Dephenoxilate otherwise find place at item No.44 of the Schedule annexed to the Act. By notification No.826(E) dated 14.11.1985 certain drugs and psychotropic substances were further classified as manufactured drugs. Item No.58 specified that a drug which has lesser content than 2.5 mg per tablet of dephenoxilate would be a manufactured drug. Consequently, the licenced Chemist may have in his possession such drugs and if he violates the conditions of his licence he would be liable to be proceeded against Drugs and Cosmetics Act. However, this protection is not available to a person who is not a licenced Chemist. For such person, mere possession of this drug and specifically of the quantity which was allegedly recovered from the petitioner would not render them the protection under the above mentioned notification.

In the circumstances, no fault can be found with the impugned order. The revision is dismissed.

Since the main case has been decided the pending criminal miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

February 05, 2015

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