

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

CRR No.554 of 2016 (O&M)
Date of Decision: September 05, 2016

Nadeem Hassan

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Amit Prashar, Advocate
for the petitioner.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Nadeem Hassan against respondent State of Haryana, challenging the impugned judgment of conviction dated 03.09.2013 and order of sentence dated 04.09.2013 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, vide which the petitioner along with other co-accused was convicted and sentenced to rigorous imprisonment for a period of six months and to pay fine of ₹5000/- and in default of payment, to undergo simple imprisonment for a period of two months under Section 23 of the Pre-Conception & Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for brevity 'PNDT Act') and also challenging the judgment dated 28.01.2016 passed by learned Addl. Sessions Judge,

Yamuna Nagar at Jagadhri, vide which appeal filed by petitioner was dismissed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.52 dated 31.01.2012 under Sections 22, 23 and 25 of the PNDDT Act. The brief facts of the case as noted down in the judgment passed by learned JMJC, Yamuna Nagar at Jagadhri, are as under:-

“Briefly, the facts of the case are that doctor Major Neeraj Bassi (PNDDT), Office of Civil Surgeon, Yamuna Nagar, had received number of complaints that accused persons were carrying their business of illegal detection of foetus in conspiracy with each other. So, taking cognizance of these complaints, the CMO, Yamuna Nagar had sent Dr. Neeraj Bassi on the suggestion of Senior Police Official along with a decoy patient (HC Amita) and Constable Jai Pal to Magho Hospital, near Santpura Gurudwara, Yamuna Nagar for getting pre-natal test on 30.01.2012 to detect the foetus of decoy pregnant patient. On the reception of the Hospital, the decoy patient talked with Ranjana, Receptionist, about the same, who expressed her ignorance and asked her to have talk with Nadeem, who will be available on the next date. Thereafter, on 31.01.2012, the decoy patient went to Magho Hospital. The Receptionist introduced to Nadeem, who told her that work will be done, but she would have to pay ₹4500/- and give her time of 5:30 PM for arranging the money. The decoy patient disclosed all the things to Dr. Neeraj Bassi, who further disclosed it to the Civil Surgeon. Civil Surgeon thereupon constituted a team in this regard. Dr. Neeraj Bassi gave nine currency notes of ₹500/- each after appending his initials thereupon to the decoy patient. The decoy patient went to the Magho Hospital. Dr. Neeraj Bassi with his team consisting of himself, Shri Vijay Mohan Attreja and Sanjeev Tuli (Account Assistant) reached Magho Hospital. After some time, decoy patient came out from Magho Hospital and told to Dr. Bassi that she had talked with Nadeem, who had asked her to reach near Lal Dwara, Yamuna Nagar. Thereafter, the decoy patient and her companion reached near Lal Dwara and after sometime, Nadeem also reached there. He took the patient and her companion inside the Shivalik Ultrasound Centre for getting the pre-natal test to detect the foetus. Thereafter, the decoy patient informed Dr. Bassi on mobile phone on which, he along with his team entered

Shivalik Ultrasound Centre, where besides the decoy patient and her companion, one Suresh Kumar, Public Relation Officer and Jeet Kumar, Receptionist employees of Shivalik Ultrasound Centre and Nadeem employee of Magho Hospital were present. The decoy patient revealed that at the instance of Nadeem, she gave ₹3500/- to Suresh Kumar, and Nadeem also took payment of ₹1,000/- for giving the same to Ranjana, receptionist of Magho Hospital. Thereafter, Dr. Bassi recovered ₹3500/- in the denomination of ₹500/- each from Suresh Kumar, which were bearing initials of Dr. Bassi and thereafter, he informed SHO, P.S. City Yamuna Nagar. Police officials of Police Post Rampura came at the Centre. Written complaint was moved by Dr. Bassi to ASI Devender Singh, Incharge, Police Post Rampura. He also handed over to him, the recovered currency notes, which were taken into police custody. Offences under Sections 22, 23 and 25 of PNDT Act 1994, was found to be committed by the accused. FIR was registered and accused were arrested. They recovered the amount of ₹3500/-. The three accused were arrested. After completion of the usual investigation, challan was presented in the Court putting the accused to face trial under Sections 22, 23 and 25 of the PNDT Act.”

Learned JMIC, Yamuna Nagar at Jagadhri, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, vide judgment dated 28.01.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner contended that petitioner is first offender, poor person and he is suffering from the criminal proceedings since 2012 and he has already undergone actual sentence of about 3 months and 28 days including remission.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is first offender and only bread earner of the family and in view of the fact that petitioner is suffering from long protracted criminal proceedings since 2012 i.e. for the last about 4 years and petitioner has already undergone actual sentence of 3 months and 28 days including remission of 7 days, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, will remain the same. As argued, fine has already been paid.

Resultantly, the present revision petition stands partly allowed.

Since, petitioner Nadeem Hassan is on bail, his bail/surety bonds stand discharged.

September 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No