

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51013 of 2013

Arising Out of PS. Case No.-316 Year-2013 Thana- PANCHRUKHI District- Siwan

Ajay Kumar Dewedi S/o Sri Suresh Dewedi Resident Of Village+ P.O- Ratan Parawalee, P.S- Bhagwanpur, District-Siwan, Owner Of Mahabir Ultra Sound Centre, Tarwara, District- Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Chandshekhar Kumar, Civil Surgeon Cum Chief Medical Officer, Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar Mishra
For the Opposite Party/s : Dr. Indihar Kumari APP

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 05-07-2018

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner has made prayer to quash the FIR of Pachrukhee (G.B. Nagar) P.S. case no. 316 of 2013 which has been lodged on the basis of letter no. 1775 dated 17.10.2013 issued by the Civil Surgeon-cum- Chief Medical Officer, Siwan for the offence under Sections 269, 270, 287, 188, 420 and 406 of the IPC and Section 200 of Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994

It is submitted that main allegation made against this



petitioner is that his license for running the Ultra Sound Centre was cancelled vide memo no. 936 dated 11.07. 2013 which was in violation of Section 20 of the Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. Besides, there is other allegation that he did not fill Form-F after May, 2013 and also did not get the form signed by the patient. Learned counsel for the petitioner has pointed out Annexure-3, which is the certificate issued by the Civil Surgeon-cum Chief Medical Officer, Siwan dated 18.12.2009 whereby the necessary certificate of registration was granted to the petitioner's clinic, namely, Mahabir Ultrasound Pachrukhi Road Tarwara, Siwan and registration was valid for the period of five years ending 17.12.2014. It is further submitted that instant FIR has been lodged without verifying any documents against the petitioner on the basis of report sent by the Civil Surgeon-cum-Chief Medical Officer, Siwan to the Officer-in-Charge of G.B. Nagar, Tarwara vide letter no. 1775 dated 17.10.2013. It is further submitted that petitioner has challenged cancellation of his license vide order dated 11.07.2013 before this Hon'ble Court vide CWJC No. 22803 of 2013 in which a counter affidavit has been filed by the respondents in which they have admitted in para 6 that joint enquiry team have found necessary facilities at



petitioner's Ultra Sound Centre. The photo copy of joint report submitted by District Pratirakshan Officer and Medical Officer, District T.B. Centre, Siwan, dated 04.02.2015 has been annexed as Annexure-A to the counter affidavit filed on behalf of the answering respondents in CWJC No. 22803 of 2013. The registration of petitioner has been restored by order dated 16.2.2105 on the basis of joint report of enquiry team (Annexure-B)

In this manner, from Annexure-3 as well as the counter affidavit which has been filed on behalf of the answering respondents in CWJC no. 22803 of 2013, this court finds that petitioner's ultra sound centre was having all the facilities at the time of joint enquiry committed by the enquiry team. It further appears from Annexure-3 that ultra sound centre of the petitioner was registered and the certificate for registration was valid from 18.12.2009 to 17.12.2014. The copy of certificate of registration is annexed as Annexure-3 to the petition.

In such circumstances, the filing of the FIR was totally misconceived and without proper verification of the relevant papers of the ultra sound centre of the petitioner. In such circumstances, the FIR lodged against the petitioner is arbitrary and it is only for the purpose of harassing the



petitioner. Accordingly, the FIR bearing Pachrukhee (G.B.Nagar) P.S. case no. 316 of 2013 lodged against the petitioner is hereby quashed.

This Cr. Misc. petition is allowed.

(Sanjay Priya, J)

shyambihari/-

AFR/AFR	AFR
CAV DATE	N/A
Uploading Date	14.7.2018
Transmission Date	14.7.2018

