

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-10527 of 2017

Date of decision: 10.10.2018

Krishanu Aaryan Bhola

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Harsh Vardhan Sheharwat, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

SURINDER GUPTA, J.

This petition has been filed by the petitioner seeking quashing of FIR No. 560 dated 25.06.2016, registered at Police Station Hisar City for offences punishable under Sections 4 (5) and 23 of Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for short 'PNDT Act').

2. This FIR was registered on the complaint of Dr. Anurag Bishnoi, which reads as follows:-

“.....A man presenting himself as Mr. Aaryan come to our hospital for PGD and sex selection. He deposited Rs. 100/-. At our counter he met Dr. Anurag Bishnoi and expressed that he want a male baby through modern technique of PGD he had no refuel (sic. reference) slip which he could show that any doctor has advised them for any reason. His motive and intention was clear that he want sex selection and he had a paper which show that technical detail of the procedure though which sex selection can be done. He had searched the internet acquired knowledge about it and than he come to over fertility canter hoping that these technique are available. He has also mentioned Thailand where many canters (sic. centers) are

doing PGD. His intention and seeking for a male baby disturbed us and we want to bring this man under police notes and local authority. Giving advice and receiving advice for male baby in illegal and come under PCPND Act and in punishable offence.”

3. Learned counsel for the petitioner while referring to observations of Hon'ble Division Bench of this Court in case of ***CRM-M-4211 of 2014 (Hardeep Singh and another vs. State of Haryana and others)*** decided on **04.12.2014** has argued that FIR for the offence committed under the PNDT Act can be registered on the complaint of Appropriate Authority under the PNDT Act. Dr. Anurag Bishnoi was not competent to get the FIR registered. He could at the most intimate the Appropriate Authority by bringing to its notice about the offence.

4. Learned State counsel has argued that though FIR could be registered by the Appropriate Authority under the PNDT Act but complaint has also been filed by Appropriate Authority against the petitioner for the same offence, which is pending before the learned Magistrate, Hisar. As the complaint has been filed by the Appropriate Authority under the PNDT Act, challan filed by the police in the FIR registered on the statement of Dr. Anurag Bishnoi may be clubbed for trial with the complaint.

5. The legal position regarding registration of FIR as per provisions of PNDT Act has been settled in case of ***Hardeep Singh (supra)***, wherein Hon'ble Division Bench of this Court has observed in concluding para of the judgment as follows:-

“In the circumstances, the questions as formulated in the reference are answered in the following manner, that:-

(1) FIR for the offence committed under the Act can be registered on the complaint of the Appropriate Authority

and can be investigated by the Police; however, cognizance of the same can be taken by the Court on the basis of a complaint made by one of the persons mentioned in Section 28 of the Act.

(2) A report under Section 173 CrPC along with the complaint of an appropriate authority can be filed in the Court. However, cognizance would be taken only (sic. on) the complaint that has been filed in accordance with Section 28 of the Act.

(3) FIR can be lodged and offences can be investigated by the Police but cognizance only of the complaint is to be taken by the Court.”

6. It is apparent from the above observations that firstly FIR can be registered on the complaint of Appropriate Authority and secondly, cognizance can only be taken on the complaint by the Appropriate Authority. Admittedly, complaint has been filed separately by the Appropriate Authority of which Court can take cognizance and proceed with it in accordance with law.

7. In view of above facts, this petition is allowed and the impugned FIR No. 560 dated 25.06.2016, registered at Police Station Hisar City for offences punishable under Sections 4 (5) and 23 of 'PNDT Act' along with all consequential proceedings arising therefrom, qua petitioners, is quashed.

October 10, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No