

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

**Criminal Misc. No. M-16825 of 2016 (O&M)
Date of Decision: October 06, 2018**

Dr. Hemant Kumar and another

.....PETITIONERS.

VERSUS

State of Punjab

....RESPONDENT.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anurag Arora, Advocate
for the petitioners.

Mr. Sandeep Kumar, D.A.G., Punjab.

SURINDER GUPTA, J.

Heard.

The police registered FIR No.106 dated 20.12.2015 at Police Station, Ahmedgarh, District Sangrur for the offences punishable under Sections 420, 120-B of Indian Penal Code (for short IPC) and 22, 23 of Pre Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for short PNDT Act).

Learned counsel for the petitioners submits that FIR was registered on the basis of secret information by the police. As per the observations of the Hon'ble Division Bench in case of “Hardeep Singh and another Vs. State of Haryana and others”, passed in CrI. Misc. No. M-4211 of 2014, decided on 04.12.2014, FIR can be registered only on the complaint of an appropriate authority under PNDT Act. In this case, no complaint was made by appropriate authority for the offences punishable under Sections 22, 23 of PNDT Act, as such the FIR was bad on this score.

He further submits that with the same allegations, the appropriate authority under the PNDT Act has filed a complaint against the petitioners and other persons, which is pending in the Court of learned Magistrate, Malerkotla. The petitioners have put in appearance in that complaint and have been released on bail.

Learned State counsel submits that even if the FIR could not be registered without the complaint of an appropriate authority, still the FIR in question cannot be quashed as it has also been registered for the offences punishable under Sections 420 & 120-B IPC and the petitioners will be at liberty to argue at the time of framing of charge that no offence under Section 420 & 120-B IPC is made out.

At this stage, learned counsel for the petitioners and learned State counsel have agreed that trial of this FIR and the complaint filed under the provisions of PNDT Act by appropriate authority be clubbed.

The only grouse of the petitioners is that FIR for the offence punishable under Sections 22, 23 of PNDT Act could not be registered without complaint of an appropriate authority. Admittedly, in this case, no complaint was made by the appropriate authority before the police.

Keeping in view the fact that a separate complaint has been filed by an appropriate authority against the petitioners and others, the trial of this case is ordered to be clubbed with the trial of the complaint case. The matter is left with the trial Court to decide as to whether offence under Sections 420 and 120-B IPC is made out against the petitioners and proceed further in the matter in accordance with law. The petitioners at the stage of arguments on framing of charge will be at liberty to raise all pleas including plea taken in this petition. However, FIR No. 106 dated 20.12.2015

registered at Police Station Ahmedgarh is partly quashed, so far as, it relate to offence under Sections 22, 23 of PNDT Act, for which separate complaint has been filed. It is, however, made clear that quashing of FIR to this extent will not effect merits of the pending complaint filed by an appropriate authority under PNDT Act. Learned trial Court will proceed with the pending complaint in accordance with law.

Disposed of accordingly.

(SURINDER GUPTA)
JUDGE

October 06, 2018
Jyoti-II

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>