

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

CRR-1251-2018

Date of decision:-19.4.2018

Surinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Hem Raj Kapil, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of filing the present revision petition petitioner –
Surinder Singh seeks setting aside of impugned order dated
12.3.2018 passed by Judge, Special Court, Sangrur along with
subsequent proceedings and to remand the case to appropriate forum.

Briefly stated, facts of the case as per prosecution story
are that on 4.6.2016 at about 9:30 p.m. in the area of near Satsang
Bhawan, Khanauri Kalan, accused was found in conscious
possession of 25 phials of Corex make Prizer, 100 ml each
containing ingredients of Codeine Phosphate, without any licence or
permit. He was arrested and on completion of investigation was sent
up to face trial for an offence under Section 22 of NDPS Act. He was

charge-sheeted accordingly and trial against him started. Now the trial is at the fag end.

During the trial the petitioner moved an application that he is running a medicine shop under the name and style of M/s Abhishek Medical Hall situated at Bypass Road, Uchana Mandi, Jind (Haryana) having valid licence for selling, stock, sale of drugs of retail and his licence is valid up to 26.3.2020; that the licence is in the name of Amit son of Satyawar, V.P.O. Budain, Tehsil Uchana, District Jind, Haryana, whereas petitioner Surinder Singh is Proprietor of M/s Abhishek Medical Hall, therefore, no offence under NDPS Act is disclosed against the accused and the case be remanded to the Court of Magistrate for trial under Drugs and Cosmetics Act since the petitioner is having a valid licence and valid bill for medicines which has been shown by the police as recovery.

This application was resisted by the prosecution contending that as per claim of the petitioner he himself is not a licence holder, as such, he is not authorized to sell any kind of medicine.

The trial Court after considering the rival contentions observed that from the present case the licenced stockist comes out to M/s Abhishek Medical Hall of which the accused claims himself to be proprietor. However, the licence is in the name of one Amit son of Satyawar, resident of VPO Budain. The Court has referred to

observations made by this Court in **Inderjeet Singh alias Ladi Versus State of Punjab, 2015(1) Crime 308**, wherein various guidelines had been laid down. In the end, it has been observed that though accused has produced the relevant certificate that he is proprietor of M/s Abhishek Medical Hall, which is having licence in the name of Amit as registered pharmacist in-charge but it is a matter of evidence as to whether there is a strict compliance of provisions of NDPS Act and Rules made thereunder so as to attract the provisions of NDPS Act. It has further been observed that case is fixed for defence evidence and accused has availed of around 10 opportunities to lead evidence in defence but examined two witnesses only and no case was made out for remanding the case to Judicial Magistrate for trial of the accused under Drugs and Cosmetics Act.

After hearing learned counsel for the petitioner, I find that there is no ambiguity or infirmity in the impugned order, which might have called for interference by this Court while exercising revisional jurisdiction.

Hence, the revision petition stands dismissed.

19.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : **Yes/No**

Whether reportable : **Yes/No**