

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

**CRM No.M-23567 of 2015 (O&M)
Date of Decision: August 02, 2019**

Sandeep Bhargava

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjay Vashisth, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The petitioner has filed this petition for quashing the FIR No.337 dated 30.06.2015 under Sections 3 and 4 of the Medical Termination of Pregnancy Act, 1971, registered at Police Station Model Town, Rewari, along with all consequential proceedings.

Notice of motion was issued. Learned State counsel appeared, filed the reply and contested the petition.

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

From the record, I find that the FIR in the present case has been registered under the MTP Act on the basis of complaint of Deputy Civil Surgeon. As per the FIR, on the basis of written order of Civil Surgeon,

Rewari, a team of Health Department was standing on Bawal Chowk. On

the asking of decoy customer, they reached at Shree Ram Medical Store. The decoy customer demanded medicine for pregnancy termination from proprietor Sandeep Bhargva, who gave MTP kit for ₹600/-. One currency note of denomination of ₹500/- LC 858650 and one currency note of denomination of ₹100/- ES 453275, which were handed over to the decoy customer by the office of Civil Surgeon, Rewari, were given to the aforementioned proprietor by the decoy customer. The MTP kit was given to the decoy customer without the slip of doctor and without bill. Thereafter, MTP kit and ₹600/- were recovered by the aforesaid Team from the proprietor of medical store.

Learned counsel for the petitioner argued that there is no provision in the Medical Termination of Pregnancy Act (MTP Act), by which the petitioner can be punished or selling of MTP kit amounts to an offence. I have gone through the provisions of the MTP Act. Section 3 deals with situation 'when pregnancies may be terminated by registered medical practitioners'; Section 4 deals with 'place where pregnancy may be terminated'; Section 5 deals with where 'Sections 3 and 4 when not to apply'; Section 6 provides 'power to make rules'; Section 7 provides 'Power to make regulations' and Section 8 deals with 'Protection of action taken in good faith'. There is no specific provision under the Act where selling of MTP kit amounts to an offence.

I have also gone through the reply filed by the State. Though, in the reply, it is stated the offence under MTP Act is made out but perusal of the provisions of the MTP Act show that no offence is made out.

Learned counsel for the petitioner cited judgment passed by

'Dr.Vandana Malik vs. State of Haryana', in which, the FIR under the MTP Act was quashed on the similar facts and circumstances.

Keeping in view the above discussions and provisions of MTP Act, I find that no offence under the MTP Act is made out in this case.

Finding merit in the present petition, the same is allowed. FIR No.337 dated 30.06.2015 under Sections 3 and 4 of the Medical Termination of Pregnancy Act, 1971, registered at Police Station Model Town, Rewari, along with all subsequent proceedings arising therefrom, is hereby quashed.

August 02, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No