

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

CWP No.1326 of 2018 (O&M)

Date of decision: August 08, 2019

Dr. Rahul Rai and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vikram Chaudhari, Senior Advocate with
Ms. Isha Goyal, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Rajan Gupta, J.(oral)

This order shall dispose of three writ petitions with identical questions have been raised with a prayer for quashing of FIRs, out of which two writ petitions i.e. CWP Nos.1326 of 2018 and CWP No.19002 of 2018, arise out of FIR Nos.471 dated 29.8.2017, under Section 22 (c) of Narcotic Drugs & Psychotropic Substances Act, 1985, registered at P.S. Ratia, District Fatehabad and one writ petition i.e. CWP No.15801 of 2018, arises out of FIR No.323 dated 5.6.2018, registered under section 22 (c) of Narcotic Drugs & Psychotropic Substances Act, 1985, registered at Police Station Fatehabad, District Fatehabad.

For brevity, facts are being taken from CWP No.1326 of 2018. On secret information being received that certain intoxicant tablets were being sold at De-addiction Centre namely, Ansoflon Health Care. A raid was conducted by the police alongwith a medical officer. On reaching there, they found that a person was sitting on the counter of the aforesaid Centre and selling certain tablets in a wrapper. Medical Officer accompanying the team asked the person to disclose his name. It was

revealed that he was Krishan Kumar son of Surja Ram, but could not produce any document to prove that he was authorised to sell the strips. A huge quantity of intoxicant tablets i.e. Carisprotal carisoma, carisoprotulip, Diazone – Disilpiron ip, NOAD-N-PLUS Buprenorphine h clans Nalaxone HCL sublingual, tablets NOAD-N-lite, Buprenorphine, Nalaxone Hydrochloride, NOAD-1-Buprenorphine, Mirtozaphine orally disintegrated teb., Mitrazapine USP, Capsules Duluxe, Tablets Donumen, Menantine Hydrochlorite, Donepzil Hydrochlorite. In all, 12400 intoxicant tablets weighing 1197 grams alongwith 570 strips were recovered without any licence from the possession of aforesaid Krishan Kumar. The aforesaid Krishan Kumar further disclosed that the medicines were supplied to him by one Dr. Amit Joon and he further named Dr. Rahul Rai and Dr. Abhishek Kapoor. Thus, FIR No.471 dated 29.8.2017, under Section 22 (c) of the Act was registered at Police Station Ratia. It transpired that medicines had been sold on the prescription of one Dr. Abhishek Kapoor (petitioner No.2 in CWP No.1326 of 2018) by M/s Anvika Pharmaceuticals, proprietor whereof was Vikrant Chaudhary. Another FIR No.323 dated 5.6.2018 came to be registered at Police Station Fatehabad against M/s Shiva Medical Hall, a wholesale distributor of drugs in Ambala Cantt. The petitioners contended before the court that they were registered medical practitioners and entitled to stock and dispense the drugs in question as per Schedule-K of the Drugs and Cosmetics Rules. Besides, medicines had been purchased from licensed dealers. They also raised certain other technical issues.

The State counsel vehemently opposed the plea. According to it, in view of Rule 66 of the Act, possession of a psychotropic substance by

an Institution, Hospital or Dispensary should be within reasonable limits. Recovery of alarmingly large quantity of drugs showed complete violation of provisions of the Act. Merely possession of a valid licence as per provision of the NDPS Act would not entitle a practitioner to keep in possession quantity of drugs beyond a reasonable limit. Even Buprenorphine is opioid used to treat addiction. This apart, efficacious remedy under Section 482 Cr.P.C. is available to the petitioners.

It has been clearly laid down in judgment reported as *State of H.P. vs. Pirthi Chand & anr. (1996) 2 SCC 37* that the High Court would be loath and circumspect to exercise its extraordinary power under Article 226 since efficacious remedy under Section 482 of the Code is available. Petitioner cannot be allowed to abuse the process of this court by invoking powers under Section 226 of the Constitution, particularly if the matter is still at the stage of investigation. Petition, thus, deserves outrightly dismissal. In view of same, this court does not feel the necessity of delving deeper into issues and refer to merits of the case. In the eventuality any challenge to vires of any provision had been made, the matter could have been examined in extra ordinary writ jurisdiction, for which even proper forum would be a Division Bench as per the High Court Rules and Orders governing the writs filed in this court.

All the three writ petitions are hereby dismissed.

(RAJAN GUPTA)
JUDGE

August 08, 2019
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No