

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-28887-2016 (O & M)****Date of decision: 18.10.2022**

Balwant Singh

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: None for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present second petition under Section 482 Cr.P.C. is for the quashing of criminal complaint No.COMI/23/2015 (32-1/2.3.2015) under Sections 3, 3(2), 3(3), 3A Rule B, 4(4), 5, 6, 22 22(1), (2), 23(3) and 2(O) of PC & PNDT Act, 1994 and 2H of Medical Council Act and 417, 420, 468, 120-B IPC titled as "State through District Appropriate Authority-cum-Civil Surgeon, Sirsa Vs. Jitender Kumar and others", and supplementary criminal complaint No.33-1/4.3.2015 under Sections 3, 3(2), 3(3), 3A Rule B, 4(4), 5, 6, 22 22(1), (2), 23(3) and 2(O) Rule 3(b) of PC & PNDT Act, 1994 and 120B/420/468 IPC at Polcie Station Sadar Dabwali, District Sirsa, titled as 'State through Chairman, District Appropriate Authority-cum-Civil Surgeon, Sirsa Vs. Veerpal Kaur and others'.

2. None appears on behalf of the petitioner.

3. Briefly, the facts of the case are that initially, in CRM-M-11186-2016 titled as 'Gurinder Pal Singh versus State of Haryana', on 07.4.2016, the following order was passed by a Co-ordiante Bench of this

“Learned counsel for the petitioner contends that the ultrasound machines were sold to the registered genetic counseling centres and therefore, the petitioner has not committed any offence under the PNDT Act, 1994. He further submits that registration of Fir is specifically barred as provided under Section 28 of the PNDT Act.

Notice of motion for 11.04.2016.

Dasti only”.

On 11.04.2016, the following order was passed:-

“On request of learned State counsel, adjourned to 23.04.2016.

Meanwhile, the petitioner may appear before the Trial Court through his counsel.

It is made clear that this concession is only for one date unless it is specifically extended”.

Thereafter, in the present petition, on 03.12.2016, the following order was passed:-

“Put up on 06.02.2017 alongwith CRM-M-11186-2016.

Interim order in the same terms as in CRM-M-11186-2016”.

On 23.09.2022, in the petition (CRM-M-11186-2016), the following order was passed by this Court:-

“Despite the case having been called twice, none has put in appearance on behalf of the petitioner.

Perusal of the file shows that on the previous date also i.e. 09.08.2022, the petitioner has gone un-represented.

Therefore, it can safely be presumed that the petitioner or his counsel is no more interested in pursuing the instant petition.

Dismissed of non-prosecution”.

4. The primary contention of the petitioner appears to have been that the registration of an FIR was barred in terms of Section 28 of the PNDT Act. This Court in the case of *'Ila Sood versus State of Punjab (CRM-M-14160-2016 decided on 18.04.2022)'*, has held as under:-

“16. In view of the aforementioned discussion, an FIR is clearly maintainable under the provisions of the PC & PNDT Act, 1994 and even otherwise, the petitioner has the remedy of seeking clubbing of both the cases in terms of Section 210 Cr.P.C. in which case the trial shall proceed like in a State case”.

5. In the present case as per the averments contained in the petition, the State case and the complaint case already stand clubbed vide order Annexure P-7.

6. The learned counsel for the State has pointed out that in FIR No.352 dated 31.12.2014 under Sections 420, 120-B, 468 IPC and Sections 3A, 4, 6, 22 of the PNDT Act, 1994, which has arisen out of the same occurrence, there were a total of 36 accused. The challan was filed on 28.02.2015 and charges were framed thereafter. 37 out of the 42 prosecution witnesses already stand examined and the next date fixed before the Trial Court is 20.12.2022.

7. In view of the above, no case for quashing of the impugned complaints as prayed for, is made out, and therefore, the present petition is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

October 18, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No