



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

CRM-M-41701-2024

Date of decision : 28.08.2024

Saurav Dagar

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ram Bilas Gupta, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for quashing of impugned order dated 16.05.2024, passed by Ld. Additional Session Judge, Faridabad in FIR No.0009 dated 09.01.2021 under Sections 3 and 5 of Medical Termination of Pregnancy Act, 1971, Sections 15(2)(B) of Indian Medical Council Act and Sections 120-B, 315, 336 and 420 IPC and the same may kindly be set aside and the application filed by the petitioner for de-seal the shop or the machine order to be taken into possession by the prosecution is liable to be allowed.

2. It has been submitted by learned counsel for the petitioner that primarily the ground for rejection of the application by the learned Court is that the shop in question was in joint name of Gaurav and Saurav Dagar but Gaurav Dagar has not given any consent regarding the same. So far as the second ground regarding release of the Ultrasound Machine, he submits that he is not agitating the same in the present petition. He submits that the co-owner Gaurav Dagar has given his affidavit after passing of the impugned order and has deposed that he has no objection

regarding de-sealing of the shop. He thus, submits that the impugned order deserves to be set aside by taking into consideration the consent given by the co-owner.

- 3. Notice of motion.
- 4. On the asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana, accepts notice on behalf of the respondent-State.
- 5. On hearing learned counsel for the parties and perusing the record, it is apparent that petitioner filed the application for de-sealing of the shop and the same was rejected on two grounds i.e. one, regarding no consent of the co-owner and second is regarding the release of ultrasound machine. However, learned counsel for the petitioner has fairly submitted before this Court that he is not agitating his second prayer for release of machine in the present petition as the same is to be dealt with during investigation.
- 6. In view of the above, the present petition is allowed and the impugned order dated 16.05.2024 is set aside qua the de-sealing of the shop. The case is remanded to the Additional Sessions Judge, Faridabad for passing a fresh order by taking into consideration the affidavit given by the co-owner-Gaurav Dagar, after hearing both the sides expeditiously as in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

28.08.2024
ps-I

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No