

2026 PHHC 018004



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

CRM-M-7470-2019 (O&M)

Date of decision : 16.02.2026

Tarsem Chand

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sherry K. Singla, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*) for quashing of order dated 22.05.2018, passed by the Court of learned Judicial Magistrate First Class, Phul in case arising out of FIR No. 50 dated 27.08.2018, registered under Sections 15 of the Indian Medical Council Act, 1956 (*for short 'the Act'*) and Section 420 of IPC at Police Station Balianawali, District Bathinda, whereby charges under the aforesaid sections had been framed against the petitioner. The petitioner has also laid challenge to the order dated 28.09.2018, whereby the learned revisional Court had dismissed the revision petition of the petitioner challenging the aforesaid order dated 22.05.2018.

2. Brief facts relevant for the purpose of disposal of the present petition are that on 27.08.2015, ASI Gurdeep Singh along with fellow

police officials was on patrolling duty. He received a secret information to the effect that the petitioner had parked his car under a tree and is selling intoxicating tablets to innocent people as de-addiction medicines by representing himself as a qualified doctor and if a raid would be conducted, he could be apprehended with a huge quantity of intoxicating drugs. Believing the information to be reliable, a ruqa was sent to the police station concerned for registration of the FIR under the aforementioned provisions. Thereafter, a raid was conducted at the informed place and the petitioner was apprehended. A car parked near him was searched and recovery of 1,00,000/- intoxicant tablets was effected from the same. As per the FSL report, the recovered tablets were found containing Tramadol Hydrochloride. The petitioner was arrested and subsequently released on bail. After completion of investigation and usual formalities, challan under Section 173 of the Code was presented on 28.07.2017. Charges under Section 15 of the Act and Section 420 of IPC were framed against the petitioner.

3. During the pendency of the trial, the petitioner has filed the present petition challenging the order dated 22.05.2018, whereby charges had been framed against him under the aforementioned provisions. Vide order dated 24.02.2020, this Court has directed the learned trial Court to adjourn its proceedings beyond the date fixed before this Court, which is still continuing.

4. It is argued by learned counsel for the petitioner that the impugned order dated 22.05.2018, framing charges under Section 15 of the Act and Section 420 IPC, as well as the revisional order dated 28.09.2018, are illegal and unsustainable in the eyes of law as both the Courts ignored

the fact that he was a licensed registered chemist and the recovered medicine was containing Tramadol Hydrochloride, which was not banned or prohibited as per the license issued to him. The license issued to him was valid till 31.12.2021. Hence, no offence under Section 15 of the Act can be stated to have been committed by the petitioner. Even otherwise, offence punishable under Section 15(3) of the Act is a non-cognizable offence and the Magistrate could not have taken cognizance of the offence on the basis of any police report. More so, no offence under Section is made out against the petitioner, particularly, when the petitioner was having a valid drug license. The very registration of FIR and the subsequent proceedings are nothing but a sheer abuse of process of law. While passing the impugned orders, the learned trial Court as well as the learned revisional Court did not take all these facts into consideration and the passed the orders in a mechanical manner. Hence, it is urged that the petition deserves to be allowed and the impugned orders are liable to be set aside.

5. Reply has been filed by the respondent-State. In terms thereof, learned State counsel has argued that there is no illegality or infirmity in the impugned orders as a prima facie case under Section 15 of the Act and Section 420 of IPC was made out against the petitioner. The petitioner was found selling intoxicant tablets to innocent persons by representing himself as a qualified doctor. Recovery of huge quantity of the intoxicating drugs, containing Tramadol Hydrochloride, was effected from him. At that stage, the trial Court was required to consider the broad probabilities of the case and not to conduct a mini trial and as such, the order framing charges against the petitioner as well as the order passed by the learned revisional

Court, thereby upholding the order of the learned trial Court, did not warrant any interference by this Court and deserve to be upheld. It is, thus, urged that the petition is liable to be dismissed.

6. This Court has heard the rival submissions.

7. As mentioned above, the petitioner has been booked and challaned in the aforementioned case and charges under Section 15 of the Act and Section 420 of IPC had been framed against him. Aggrieved from the same, he is before this Court by filing the present petition. Upon a careful consideration of the record and the rival submissions, this Court is of the considered view that the impugned order dated 22.05.2018 framing charges against the petitioner under Section 15 of the Act and Section 420 of IPC is legally unsustainable and suffers from patent jurisdictional error. The petitioner was admittedly having a valid license to keep and sell drugs. However, it was alleged that he was selling the medicines at a place other than the one, for which, he had been issued the said license. It is no longer *res integra* that the offence punishable under Section 15(3) of the Act is non-cognizable in nature and that cognizance thereof cannot be taken on the basis of a police report. The legal position stands authoritatively settled by the Division Bench judgment of this Court in ***Dr. Barinder Singh, President, Ludhiana Medical Welfare Association v. State of Punjab 2009(5) RCR (Criminal) 565***, wherein it has been categorically held as under:

“Section 15(3) of the Indian Medical Council Act, 1956 as it stands on the statute book prescribes a punishment of only one year for any one contravening the provisions of the said Act. Part (ii) of Schedule (I) of the Code of Criminal Procedure deals with the classification of offences against- other laws and inter

alia provides that if the offence is punishable with imprisonment for a period of less than three years or with fine only, the same would be non-cognizable and can be tried by a Magistrate. This implies that a Magistrate taking cognizance of such an offence can do so on a complaint filed before him under Section 190(1) (a) read with Section 200 of the Code of Criminal Procedure. The expression 'Complaint' has been defined in section 2(d) of the Code of Criminal Procedure to mean any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report. This implies that no sooner the Magistrate receives a complaint containing an allegation orally or in writing, he can take cognizance under Section 190 and issue process under Section 204 of the Code of Criminal Procedure. The expression 'offence' as defined under Section 2 (n) means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under Section 20 of the Cattle-Trespass Act, 1871.”

8. The aforesaid principle was subsequently reiterated and applied by this Court in ***Ashok Kumar v. State of Punjab, 2011(2) RCR (Criminal) 449***, wherein it was specifically held that registration of an FIR and prosecution on the basis of a police report for an offence under Section 15 of the Act is impermissible in law and that such prosecution can only be initiated by way of a complaint by the competent authority.

9. In the present case, admittedly, the proceedings were initiated on the basis of an FIR registered by the police and a challan presented under Section 173 of the Code. In view of the settled legal position, the

learned Magistrate lacked jurisdiction to take cognizance of the alleged offence under Section 15 of the Act and consequently could not have framed charges thereunder.

10. So far as the charge under Section 420 IPC is concerned, this Court finds that the essential ingredients constituting the offence of cheating are conspicuously absent. There is no allegation on record of any specific act of deception, inducement or dishonest intention at the inception, nor is there any identifiable victim who is alleged to have been induced to part with property. As held in **Ashok Kumar**'s case (supra), mere allegation of selling medicines or drugs, even if in violation of regulatory provisions, does not *ipso facto* attract Section 420 of IPC in the absence of foundational facts constituting the offence of cheating. At best, the allegations, if assumed to be correct, fall within the domain of special statutes such as the Drugs and Cosmetics Act.

11. This Court is further constrained to observe that the learned trial Court framed the charges in a routine and mechanical manner without examining the jurisdictional bar and without satisfying itself as to the existence of prima facie material constituting the essential ingredients of the alleged offences. The impugned order does not reflect due application of judicial mind, as required at the stage of framing of charge. Permitting such prosecution to continue would result in unnecessary harassment to the petitioner and would amount to abuse of the process of law. Hence, in view of the ratio laid down in aforecited judgments and having regard to the facts of the present case, this Court holds that the order dated 22.05.2018 framing charges under Section 15 of the Act and Section 420 of IPC is legally unsustainable and deserves to be set aside. Accordingly, the

impugned order 22.05.2018, passed by the learned trial Court, and the order dated 28.09.2019, passed by the learned revisional Court upholding the aforesaid order of the learned trial Court, are hereby quashed, along with all consequential proceedings arising therefrom.

16.02.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

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