



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

CRM-M-25802-2017 (O&M)
Date of decision : 21.05.2026

Dr. Manjari

..... Petitioner

VERSUS

State of Haryana & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. S.S. Narula, Sr. Advocate with
Mr. Sidharth Grover, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG Haryana.

SURYA PARTAP SINGH, J.

By invoking the extraordinary jurisdiction, vested in this Court by virtue of Section 482 of Criminal Procedure Code, the quashing of FIR No.27 dated 16.02.2016, Police Station Israna, District Panipat has been sought in this petition. The abovementioned FIR has been lodged for the commission of offence punishable under Sections 4(4), 4(3), 5, 6, 10-1A and Rule 9 of 'the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, hereinafter being referred to as 'the Act' only.

2. It has been alleged by the petitioner that the FIR and thereafter, challan/charge-sheet have been filed for the commission of abovementioned offence against the petitioner, and that the abovementioned proceedings taken up by the police being violative of laid down law and principles of natural justice, needs the exercise of extraordinary jurisdiction by this Court.



On the abovementioned grounds, the quashing of FIR along with all the subsequent proceedings has been sought.

3. In nut-shell, the facts emerging from record are that the abovementioned FIR came into being at the instance of 'Dr. Sudhir Batra, Deputy Civil Surgeon, Panipat', hereinafter being referred to as 'complainant' only. It was complained by the above-named complainant that Deputy Commissioner and Civil Surgeon Panipat had constituted a team on 12.02.2016, comprising of the complainant, Rajbir Singh, Duty Magistrate-cum-Naib Tehsildar Panipat, Dr. Sukhdeep LMO Panipat, Sh. Parvinder Malik, Drug Control Officer and L/SI Rekha. As per complainant, in order to conduct raid, two ladies were deployed as decoy patients, one of whom was pregnant and another one projected herself to be the sister of pregnant lady. According to above-named complainant, the decoy patients contacted mediator 'Mukesh' and his wife 'Sonia', who received a sum of Rs.8,000/- from decoy patients and asked them to meet on 15.02.2016.

4. The complainant further alleged that on 15.02.2016, the decoy patients were taken to 'NC Medical College Israna', where they stayed till 04:00 pm, but were asked to visit again on 16.02.2016, when 'Dr. Manjari' without filling Form-F and without recording any entry in the register, conducted ultrasound examination of the decoy patient and thereafter, the attendant 'Renu' informed the decoy patient that the child in the womb was a male child. According to complainant, thereafter, the inquiry team reached the spot carried out usual formalities of inquiry.



5. It is the case of the prosecution that pursuant to abovementioned inquiry, the abovementioned complaint was filed, which led to registration of FIR in question.

6. Heard.

7. It has been contended by learned counsel for the petitioner that in the present case, the manner, in which the FIR has been lodged and the prosecution against the petitioner has been launched, is altogether illegal and contrary to the principles of law. It has also been contended by learned counsel for the petitioner that the Haryana Government vide Notification dated 07.11.2013 has constituted a 'District Appropriate Committee', and that as per law laid down by the Hon'ble Supreme Court of India in the case of 'Ravinder Kumar V/s State of Haryana' AIR 2024 SC 4311, only the abovementioned 'District Appropriate Committee' is authorized to take up any proceeding under the 'Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994'. As per learned counsel for the petitioner, since in the present case the proceedings have not been conducted on the instructions of abovementioned Committee, the filing of FIR is absolutely illegal and *void ab initio*.

8. In addition to above, the learned counsel for the petitioner has also contended that in the present case, the cognizance has also been taken by the Court on the basis of report submitted by the police under Section 173 CrPC, whereas as per law propounded by the Division Bench of this Court in the case of 'Hardeep Singh & Anr. V/s State of Haryana & Ors.', CRM-M-4211-2014, only the report can be filed under Section 173 CrPC by the



police, but the cognizance would be taken only on the complaint filed under Section 28 of the Act. It has been contended by learned counsel for the petitioner that in the present case, there has been blatant violation of the law and thus, the very process adopted by the respondent/State with regard to registration of FIR, filing of report under Section 173 CrPC and taking of cognizance by the Court is illegal.

9. The learned State Counsel has controverted the abovementioned arguments. It has been contended by learned State Counsel that in the present case, the proceedings have been conducted in a legal manner, as the process for filing of FIR was initiated on the basis of a raid conducted by a team constituted by Deputy Commissioner Panipat and Civil Surgeon Panipat. According to learned State Counsel, since Civil Surgeon of the District is the head of the 'District Appropriate Authority', the only inference in the given fact situation should be drawn that it was at the instance of 'District Appropriate Committee' that the prosecution against the petitioner has been launched. It has also been contended by learned State Counsel that otherwise also, the complaint in the present case has been presented before the police by the 'Deputy Civil Surgeon Panipat', and that being a public servant, subordinate to Civil Surgeon, he was competent and authorized to conduct raid and report about the illegal activities under the Act.

10. The record has been perused carefully.

11. As far as the question of taking cognizance under the Act is concerned, Section 28 of the Act provides as under:-



“Cognizance of offences – (1) No Court shall take cognizance of an offence under this Act except on a complaint made by –

(a) the Appropriate Authority concerned, or any officer authorized in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than [fifteen days] in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the Court.”

12. As far as the facts and circumstances of the present case are concerned, since in the present case there is no allegation that any person had served notice as prescribed under Section 28(1)(b) of the Act, the only inference which can be drawn is that the prosecution initiated in the present case, is under Section 28(1)(a) of the Act, which means that the complaint has to be filed by the ‘District Appropriate Authority’. But, in the present case, the FIR has been lodged at the instance of Deputy Civil Surgeon.

13. With regard to the manner, in which the cognizance can be taken under the Act, the relevant questions have been answered in the case of ‘Hardeep Singh’ (supra), wherein it has been observed that:

“(a) FIR for the offence committed under the Act can be registered on the complaint of the Appropriate Authority and can be investigated by the Police; however, cognizance of the same can be taken by the Court on the basis of a complaint made by one of the persons mentioned in Section 28 of the Act.



- (b) *A report under Section 173 CrPC along with the complaint of an appropriate authority can be filed in the Court. However, cognizance would be taken only the complaint that has been filed in accordance with Section 28 of the Act.*
- (c) *FIR can be lodged and offences can be investigated by the Police but cognizance only of the complaint is to be taken by the Court.”*

14. With regard to formation and competence of appropriate authority, the Notification dated 07.11.2013 issued by the Government of Haryana is relevant, which prescribes that:-

“No.1/18/88-2HB. II-97 – In exercise of the powers conferred by Sub-section (2) read with clause (b) of Sub-Section (3) of Section 17 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (Central Act 57 of 1994), and in supersession of Haryana Government, Health Department, Notification No.1/18/88-2HB. II-97, Dated the 4th March, 2009, the Governor of Haryana hereby appoints with immediate effect, an Appropriate Authority, for the District, Consisting of following, namely:-

- | | |
|---|--------------------|
| <i>1. Civil Surgeon</i> | <i>Chairperson</i> |
| <i>2. District Programme Officer Women and
Child Development Department</i> | <i>Member</i> |
| <i>3. District Attorney</i> | <i>Member”</i> |

15. The abovementioned Notification shows that appropriate authority comprises of three persons, which means that any proceedings under the Act at the instance of appropriate authority, cannot be initiated by one person only. With regard to above, in the case of ‘Ravinder Kumar’ (supra), the Hon’ble Supreme Court of India has observed that:-



“Under the notification dated 7th November 2013, the Appropriate Authority for the district consists of the Civil Surgeon, the District Program Officer of the Women and Child Development Department, and the District Attorney. The Civil Surgeon is the Chairman of the appropriate authority. Looking at the object of sub-section (1) of Section 30 and the express language used therein, only the Chairman or any other member acting alone cannot authorise search under sub-section (1) of Section 30. It must be a decision of the Appropriate Authority. If a single member of the Appropriate Authority authorises a search, it will be completely illegal being contrary to sub-section (1) of Section 30. If the law requires a particular thing to be done in a particular manner, the same shall be done in that manner only. In the present case, going by the affidavit filed by Dr Virender Yadav, the Chairman of the District Appropriate Authority cum-Civil Surgeon, Gurugram, the decision to conduct a search by appointing three officers by order dated 27th April 2017 was only his decision purportedly taken in his capacity as the Chairman of the Appropriate Authority. Admittedly, the other two members of the appropriate authority are not parties to the said decision. The Civil Surgeon has given the excuse of urgency. The Appropriate authority doesn't need to have a physical meeting. The Civil Surgeon could have held a video meeting with the other two members. However, when a video meeting is held, every member must be made aware of the complaint or the material on which a decision will be made. It was a matter of a few minutes.”

16. In view of abovementioned fact situation, the Hon’ble Supreme Court of India laid down that the decision taken by the Civil Surgeon at his own level was not a legal decision by the ‘District Appropriate Authority’ in terms of Sub-Section (1) of Section 30, to search for the appellant’s clinic.



According to Hon'ble Supreme Court of India, Sub-Section (1) of Section 30 of the Act provides a safeguard by laying down that only if the 'District Appropriate Authority' had reason to believe that the offence under the Act has been committed or is being committed, a search can be authorized. It has been further held that in case, there is no decision of the 'District Appropriate Authority' and the decision to carry out the search is an individual decision of the Civil Surgeon, who was the Chairman of the concerned Appropriate Authority, the action of search in itself stands vitiated.

17. While recording the abovementioned observations, the Hon'ble Supreme Court of India allowed the appeal of appellant-Ravinder Kumar and quashed the FIR.

18. In the factual matrix of the present case is analyzed in the light of abovementioned principles of law, it transpires that the present case is squarely covered by the ratio in the case of 'Ravinder Kumar' (supra) and the Division Bench of this Court in the case of 'Hardeep Singh' (supra).

19. The following are the relevant factors, which need consideration in the present case:-

- a) that the order with regard to a team to conduct raid/inquiry was not made by the 'District Appropriate Authority', as the 'District Attorney' and the 'District Programme Officer Women and Child Development Department' were not consulted or taken into confidence before constitution of raiding party;
- b) that there was no resolution of the 'District Appropriate Authority' with regard to conduct of raid;



- c) that for filing of complaint also, no decision was taken by the ‘District Appropriate Authority’; and
- d) that the ‘District Appropriate Authority’ never approached the police for registration of FIR. Rather, it was the Deputy Civil Surgeon, who as per law, is alien to the above-discussed process.

20. With regard to scope and indulgence of this Court for exercising extraordinary jurisdiction, the guiding principles, wherein extraordinary jurisdiction for quashing of FIR can be exercised, have been laid down by the Hon’ble Supreme Court of India in the case of ‘Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others’ 2021 SCC OnlineSC 315. Those guidelines prescribe that:

- “a) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;
- b) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- c) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;
- d) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- e) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;



- f) At the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of ‘R.P. Kapur V/s State of Punjab’ and ‘State of Haryana Vs. Ch. Bhajan Lal’, 1991(1) RCR 383, has the jurisdiction to quash the FIR/complaint; and
- g) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

21. In addition to above, in the case of ‘State of Haryana Vs. Ch. Bhajan Lal’, 1991(1) RCR 383, the Hon’ble Supreme Court of India after reviewing large number of cases on the question of quashing of FIR has laid down that the FIR can be quashed in the following circumstances:-

- a) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- b) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- c) Where the uncontroverted allegations made in the FIR or

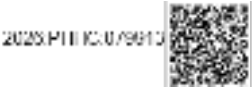


complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

- d) Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- e) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- f) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

22. Taking into consideration the cumulative effect of all the abovementioned factors as well as the abovementioned guiding principles, it is hereby observed that the manner, in which the proceedings have been initiated and conducted in the present case, is illegal, perverse and contrary to the settled law. Thus, it is hereby held that the present petition deserves to be allowed and the FIR in question as well as all the subsequent proceedings arising therefrom deserve to be quashed.

23. As a sequel to abovementioned observations, the present petition is hereby ***allowed*** and the FIR No.27 dated 16.02.2016, for the



commission of offence punishable under Sections 4(4), 4(3), 5, 6, 10-1A and Rule 9 of Act, Police Station Israna, District Panipat, along with all other consequential proceedings arising therefrom, are quashed.

24. Pending miscellaneous application(s), if any, also stands disposed of.

(SURYA PARTAP SINGH)
JUDGE

21.05.2026
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No