

**CRM-M- 32212 of 2011 (O&M)****-1-****In the High Court of Punjab and Haryana at Chandigarh****CRM-M- 32212 of 2011 (O&M)**  
**Date of Decision:21.3.2014****Dr. Renu Bansal****---Petitioner****Versus****State of Haryana****---Respondent****Coram: Hon'ble Mrs. Justice Rekha Mittal****\*\*\*****Present:-** Mr.B.B.Banga, Advocate  
for the petitionerMs. Loveleen Dhaliwal Singla, Sr. DAG, Haryana  
for the respondent-State**\*\*\***

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

**REKHA MITTAL, J.**

The petitioner prays for quashing of FIR No. 76 dated 17.3.2011 for offence under Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971 (for short "the Act"), registered at Police Station Naraingarh, District Ambala, order dated 23.8.2011 whereby the charge was framed, charge sheet dated 23.8.2011 and proceedings emanating therefrom.

Counsel for the petitioner contends that a false case has been registered against the petitioner due to professional rivalry. It is further submitted that even if the allegations raised against the petitioner are taken to be correct on its face value, no offence under Sections 3, 4 and 5 of the Act is made out against the petitioner, therefore, the aforesaid FIR and



CRM-M- 32212 of 2011 (O&amp;M)

-2-

proceedings emanating therefrom are liable to be quashed.

Counsel for the State of Haryana, on the contrary, has submitted that during a raid conducted by a team of doctors consisting of Dr. Sangeeta Goel and Dr. B.B.Lala, various equipments used for termination of pregnancy were found from the labour room of Bansal Nursing Hospital, Hussaini Road, Naraingarh run by petitioner Dr. Renu Bansal and the said hospital is not a place approved for the purpose of the Act by the Government, therefore, the petitioner has been rightly charged for the aforesaid offence. It is further argued that the charge has already been framed against the petitioner and the allegations set up against her are required to be tested during trial for adjudication of culpability of the petitioner.

I have heard counsel for the parties and perused the records.

Section 3 of the Act deals with 'when pregnancies may be terminated by registered medical practitioners'. Section 4 provides for place where pregnancy may be terminated. Sub-sections 2, 3 and 4 of Section 5 provide for punishment in certain eventualities. A relevant extract from Section 5 of the Act is quoted hereinbelow:-

5. Sections 3 and 4 when not to apply.-(1) XXX

XXX XXX XXX XXX

(2)Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of a pregnancy by a person who is not a registered medical practitioner shall, be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified.

(3)Who ever terminates any pregnancy in a place other than



that mentioned in Section 4, shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

(4)Any person being owner of a place which is not approved under clause (b) of Section 4 shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

Explanation 1. XXX XXX XXX

Explanation 2. XXX XXX XXX”

A perusal of the aforesaid penal provisions of Section 5 of the Act makes it evident that termination of a pregnancy by a person who is not a registered medical practitioner shall be an offence punishable under Section 5(2) of the Act. A person who terminates any pregnancy in a place other than that mentioned in Section 4 of the Act, shall be punished in view of Section 5(3) of the Act. The legislative intent and object behind this act is to restrain termination of pregnancy by a person other than a registered medical practitioner or at a place other than the place provided for in Section 4 of the Act.

In the case at hand, the petitioner has been sought to be indicted in the crime on the allegations that some instruments used for termination of pregnancy, were found in the labour room in Bansal Nursing Hospital during a raid, conducted by a team of doctors. However, during investigation of the case, no evidence has been collected that Dr. Renu Bansal, petitioner ever conducted termination of pregnancy. No person can be held guilty for committing a crime on the basis of assumptions and presumptions. This apart, there is nothing on record suggestive of the fact that these instruments are not used for conducting delivery or any other medical precision much less used only for termination of pregnancy.



CRM-M- 32212 of 2011 (O&amp;M)

-4-

Counsel for the State of Haryana otherwise failed to cite any provision in law or a precedent that if instruments used for termination of pregnancy are found in a hospital, it raises a legal presumption against the doctor running that hospital or the owner of the place that the said hospital is being used for termination of pregnancy or any person has terminated the pregnancy. In this view of the matter, I find force in the contention of the petitioner that even if the allegations raised against the petitioner are accepted to be true on its face value, the same do not constitute any offence charged against the petitioner, therefore, the proceedings are liable to be quashed. In this context, reference can be made to a judgment of Hon'ble the Supreme Court of India in *State of Haryana and others vs. Ch. Bhajan Lal and others, 1991 (1) R.C.R. (Criminal)383*. In *Ch. Bhajan Lal and others's case (supra)*, the Apex Court culled out certain categories of cases by way of illustrations wherein power under Article 226 or the inherent power under Section 482 of the Code can be exercised either to prevent abuse of process of any court or otherwise to secure ends of justice with the observations that it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases where such power should be exercised. The categories of cases by way of illustrations have been described in clauses 1 to 7 of para 107. A relevant extract from clause (1) of the said para reads thus:-

“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.”

**CRM-M- 32212 of 2011 (O&M)****-5-**

For the foregoing reasons, the petition is allowed, FIR No. 76 dated 17.3.2011 for offence under Sections 3, 4 and 5 of Act, registered at Police Station Naraingarh, District Ambala, order dated 23.8.2011, charge sheet dated 23.8.2011 and proceedings emanating therefrom are ordered to be quashed.

No order as to costs.

**(Rekha Mittal)**  
**Judge**

**21.03.2014**  
Paramjit