

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**BEFORE HON. SHRI JUSTICE ALOK VERMA,J**

**M.Cr.C. No.7471/2014**

**Dr. Manju Singh and others**

**Vs.**

**State of M.P. and others**

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Shri K.C. Raikwar, learned counsel for the applicants.

Shri Amit Singh Sisodiya, learned counsel for the respondent No.1/State.

Shri Rishi Agrawal, learned counsel for the respondent No.4.

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**ORDER**

**(Passed on 30/11/2015)**

This application is filed under section 482 Cr.P.C. for quashment of FIR in Crime No.315/2014 Police Station-Station Road Ratlam, District Ratlam under section 409/34 of IPC.

2. The facts in brief giving rise to this application are that the applicant No.3- Dr. Charul Singh is son of applicants No.1 and 2. Applicants No.1 and 2 were working as Medical Officer in District Hospital Ratlam. Applicant No.3 was running a hospital in the name and style of Samarpan Hospital Ratlam. An appropriate authority under Pre-Conception and Pre-Natal

Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereinafter referred to as 'PC & PNDT Act') constituted a team for inspection of Samarpan Hospital run by applicant No.3. The order of constituting the inspection team is Annexure P/3. The team conducted search of Samarpan Hospital without any search warrant. The respondent No.4 who was head of the team seized the equipment and other materials during the inspection, however, in the seizure memo there was no mention of any medicines being formed in the premises of the hospital. After such ceiling of machines and other materials, a show-cause notice was issued to applicant No.3 for cancellation of registration of the hospital. Copy of the show cause notice is Annexure P/5. It is further alleged that on 09.05.2014 after 9 days of conducting the search and seizure on 01.05.2013 another order was issued by appropriate authority and Collector Ratlam constituted another team consisting of six members for opening of the lock of the hospital and after minute inspection of the premises for taking further action. The team opened the lock of the premises and during the inspection and preparation of inventory, it was found that medicines which were meant to be used in District hospital Ratlam was found in the hospital and accordingly, on

23.05.2014, FIR under consideration in this matter was lodged in the Police Station - Station Road District Ratlam. On lodging of the complaint, the aforesaid crime was registered against the applicants under section 409/34 of IPC.

3. This application is filed for quashment of above crime and FIR arising out of it, inter-alia, on the ground that the punchnama Annexure P/3 dated 01.05.2013 does not mention any medicine that was found in the premises of the hospital. Subsequently, locks were opened in contravention of section 30 of PC & PNDT Act and also corresponding provisions of search and seizure of Cr.P.C. and, thereafter it was stated that the medicines were found in the premises of the hospital prima-facie according to the applicants the medicines were planted in the hospital to falsely implicate the present applicants. The order dated 09.05.2014 was also issued by the appropriate authority under PC & PNDT Act without obtaining prior permission of the concerning Magistrate which was mandatory under the provision of the Act and also provisions of Cr.P.C. The applicants further point out that applicant No.3 is not a government servant and, therefore, the offence under section 409/34 of IPC is not made out against

him. Also alleging the various other facts, the applicants state that they were falsely implicated to malign their image as doctors in the area. Respondent No.4, who was present in person during argument also filed written reply stating therein that all the proceedings under PC & PNDT Act and also filing of aforesaid FIR was done as per the law. Respondent No.4 was only member of the team constituted by the appropriate authority and he performed his duties as member of the team. He further submits that this application is filed to delay the enquiry and investigation in the matter and, therefore, he prays that the application be dismissed.

4. I have taken the rival contention into consideration and also gone through the record of the case, it is apparent that the proceedings were initiated under PC & PNDT Act on the orders of the appropriate authority, it resulted in lodging of FIR which is assailed by filing this application under section 482 Cr.P.C. by the applicants. Therefore, the matter relates to two independent provisions of law. So far as the proceedings under the provision of PC & PNDT Act are concerned, the law will take its own course and no comments are required at this stage.

5. Whether the search and seizure was properly conducted as per law is also the matter of the defence. According to prosecution, medicines which were issued in the District hospital were found in the premises of the hospital. They were identified by batch number and there were also many such medicines which were not available in open market and were supplied only through the District hospital. In such a situation, so far as the applicants No.1 and 2 are concerned, prima-facie there is a strong suspicion that they supplied the medicines to the hospital which belong to their son. Whether they were officially entrusted the medicines or not is again a matter of enquiry. For exercising powers under section 482 Cr.P.C. such defence cannot be seen, at this stage. Only aspect to be seen is whether the facts stated in the FIR, there arise a strong suspicion in respect of commission of a cognizable offence. No further enquiry is needed, at this stage.

6. The applicants relied on the judgment of Hon'ble Apex Court in case of **Satish Mehra vs. State of N.C.T. Of Delhi; 2013 CRI.L.J. 411** and **Manik Taneja and another vs. State of Karnataka and another; (2015) 3 SCC (Cri) 132**. After considering the principles laid down by the Hon'ble Apex

Court in these cases, it is apparent that at this stage only averments made in the FIR are to be seen no further enquiry is necessary. It is for the prosecution to prove that medicines which were meant for use in the District hospital were found in the premises of the hospital and it is also for the trial court to see whether under what provision of law, charges are made out against the applicants. The trial court is not bound by the provision of law mentioned in the FIR and accordingly, taking the facts stated in the FIR and other relevant facts which led to lodging of the complaint, at this stage, no case is made out for interference using extraordinary jurisdiction granted on this Court under section 482 Cr.P.C.

7. Accordingly, this application is devoid of merit and liable to be dismissed and dismissed accordingly.

**( ALOK VERMA )  
JUDGE**