

IN THE COURT OF SHRI JAGJIT SINGH, HCS
SUB DIVISIONAL JUDICIAL MAGISTRATE, PALWAL

CASE NO. 295/2 OF 2001

DATE OF INSTT. 5.11.2001/20.7.2004

DATE OF DECISION : 28.3.2006

State through District Appropriate Authority-cum-Civil Surgeon, Faridabad.

... Complainant

VERSUS

1. Dr. Anil Sabhani, Prop. M/s Dr. Anil's Ultrasound Opp. G.H. Palwal, Faridabad
2. Sh. Kartar Singh son of Sh. Lakhi Singh, Technician M/s Dr. Anil Ultrasound, Opp. G.H. Palwal, Faridabad Mesident of V.P.O. Maheshpur, District Faridabad.
3. Ms. Dr. Anil Ultrasound, Opp. G.H. Palwal, Faridabad (H) through Dr. Anil Sabhani)

... Accused.

COMPLAINT UNDER PRE-NATAL DIAGNOSTIC TECHNIQUE (REGULATION
AND PREVENTION OF MISUSE) ACT. 1994 AND RULES, 1996

Present: A.P.P. for the State / Complaint

Both accused on bail with Sh. R.A. Gupta, Advocate

JUDGMENT:

The present case was initially field a complaint by the District Appropriate Authority-cum-civil Surgeon Faridabad against accused on the grounds that the complainant has been appointed as the "Appropriate Authority" under 17(2) of the Pre-Nantal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994 (hereafter referred as "PNDT Act") vide Haryana Govt. Gazatte notification No. 1/19/88 2HB-11-97 dated 18.9.1997 for the district and is presently posted as Civil Surgeon, District Faridabad, that M/s Dr. Adil Ultrasound Centre. Situated Opp. G.H. Palwal, Faridabad

for conducting PNDT in violation of Section 4(1), 4(2) and 4(3) of the act and also failing to maintain proper records of the ultrasound centre and contravening the provisions of section 29 read with rule 9 and Form 'J' under the PNDT Act Rules and all the offence are punishable under section 23 of the Act. Both the accused are accordingly held guilty and convicted for the above offences. Let the convicts be heard on the point of quantum of sentence on 28.03.2006.

Sd/--

Announced: Sub Divisional Judicial Magistrate

Dt.: 25.03.2006

Palwal: 25.3.2006

JUDGMENT CONTINUED:

Present: APP for the State / Complainant both convicts in person with Sh. R.A. Gupta, Advocate.

ORDER OF -----

Arguments on the point of quantum of sentence heard. Convict Dr. Anil Sabhani has stated that he is the sole bread earner of the family with an old mother and small children to look after. He is doctor by profession and not a previous convict and a Lenient view be taken against him. Convict Kartar Singh has meanwhile stated that he is not a previous convict and has old parents and small children to look after. He is the sole bread earner of the family and a Lenient view be taken against him. The learned counsel for the convicts argued that the convicts are not previous offenders and they did not indulge in any criminal act and as such Leniency be shown to them. The learned App. meanwhile argued that stringent punishment be awarded to the convicts, who have indulged in a very serious offence.

2. I have heard the convicts, their counsel as also the learned App. for the State. The convicts have prayed for a Lenient view against them, but in my considered view they do not deserve the Leniency prayed for. As earlier discussed due to the illegal acts of the persons like the convicts the sex ratio is declining day by day in the country and in the State and because of the persons like the convicts the day is not far when there would be no girl child around. In the present case, the convicts orally conveyed the sex of foetus to the patients, but due to the check of such illegal acts the persons like the convicts have worked out their own sex determination code. It was reported in the news paper recently as follows:-

If the doctor tells us to come and get the report on Monday, we know it's a boy. Friday means a girl, "says Sarla a proud mother of three strapping

boys in Karnal's Chonchda village. Her neighbour's doctor adopted a slightly different modus operandi signature in red ink to indicate a girls and blue for a boy. "no words are exchanged. Its an unspoken thing and one doesn't even have to ask." she says. If the doctor doesn't oblige, some tout does".

3. It is further to be even that Haryana's infamously skewed sex ratio is not just about numbers though they are quite horrific-861 per 1000 males as per the 2001 census – it's also about attitudes. Combined with ultrasound technology that motorable roads, electricity and extensive urbanisation have brought only closer home, this has translated into a dearth of brides. The statistic speak for themselves. 36.24% of men between 15 and 44 years of age (the so-called reproductive of marriageable age) were tabulated as being unmarried in the 1991 census. In some districts like Rohtak, the percentage was as high as 44. Since then, the number has only gone up. Though the state government has claimed success in its efforts to correct the skewed sex ratio through awareness drives and incentives for the girl child, activists who work in the area are sceptical.

4. The convicts together have been indulging in a very serious crime. To kill a person who may have the opportunity to defend himself is a very serious offence, but even more serious is the offence where a person kills some one who is not even in a stage to defend himself. The determination of sex by persons like the convicts lead to the above reality where on determining sex of the foetus as female the same is killed in a cruel manner. The act of the convicts is to be condemned and in my considered view the punishment to be awarded to the convict should act as a deterrent to and other persons, so that no one indulged in such heinous crime. Accordingly. I order both the convicts to undergo simple imprisonment for a period of two years and to pay a fine of Rs. 5,000/- each for the offence mentioned in section 6 (a), 6(b), section 5(1), 5(2), section 4(1), 4(2), 4(3) and section 29 read with Rule 9 of the Act and all the offence are punishable under section 23 of the Act. In default of payment of fine the convicts shall further undergo simple imprisonment for a period of three months Fine paid.

Sd/--

Announced in open Court, Sub-divisional Judicial Magistrate

Dated: 28th March 2006

Palwal. 28.3.2006

NOTE: This judgment contains forty nine pages and each page has been signed by me.

Sd/--

Sub-divisional Judicial Magistrate

Palwal. 28.3.2006.