

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4880 OF 2014

VISHWAS S/O NARAYAN CHOUBHE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Swapnil S. Rathi
APP for Respondent/State : Mr. D. R. Kale

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 11th DECEMBER, 2015

P.C. :-

1. The present application is filed for quashing of the complaint. Allegations in the complaint are that, daughter of the complainant was taken to one Dr.Somwanshi and her pregnancy was terminated. It is alleged that the same was not properly terminated and she was again required to be admitted in civil hospital where, remaining part of the foetus was removed. It is alleged that said Dr.Somwanshi, without obtaining any consent from the complainant or her daughter, had terminated her pregnancy. As such, crime bearing No. 66/2012 was registered for the offences punishable under Sections 313, 337, 338 r/w 34 of Indian Penal Code and under Sections 3 and 5 of the Medical Termination of Pregnancy Act, 1971, so also, under Sections 8(1), 17(2), 18(1), 18(2) of the Pre-conception and Pre-natal

Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, against Dr.Somwanshi. Subsequently, staff of the hospital and present applicant is also added as accused. The present applicant is the lab owner who had conducted urine and blood tests. It is the contention of Mr. Rathi, learned counsel, that when present applicant had moved application seeking pre-arrest bail, the respondent made a statement that they do not require custody of the applicant. The learned counsel submits that no role is attributed to the present applicant.

2. Mr. Kale, the learned APP submits that charge sheet is already filed. Accused is also charged with section 34 of I.P.C. Role of the present applicant, who had conducted urine and blood tests, as such, can be attributed.

3. We have considered the complaint and the charge sheet. Complaint is based on the averments that Dr. Somwanshi terminated pregnancy of daughter of the complainant without her consent and also did not terminate it properly. Daughter of the complainant was, thereafter, required to be taken to civil hospital, where, remaining part of the foetus was removed. Present applicant is a laboratory owner who had only conducted blood and urine tests. By no stretch, the applicant can be involved for the alleged offences under the

Medical Termination of Pregnancy Act, 1971 and the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, *inter-alia*. Even if the complaint is taken as it is, no offence is made out against the present applicant.

4. In the result, the charge sheet bearing No. 51/2013 and subsequent case being RCC No. 149/2013 pending with the Judicial Magistrate First Class, Ambajogai, District Beed, to the extent of the present applicant, is quashed and set aside.

5. The criminal application is accordingly disposed of.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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