

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE  
CRIMINAL APPLICATION NO.196 OF 2014  
(For Leave to Appeal)

The State of Maharashtra

...Applicant/Org.  
Complainant

V/s.

Dr.Ujma Atik Patel

...Respondent  
(Orig.Accused No.2)

Mr. A.R. Patil, APP for the State.

Mr. Manoj P. Patil for the Respondent.

CORAM : A.R.JOSHI, J.

DATE : 16.06.2015.

P.C.:

. Heard the learned APP for the State.

2. This is an application for leave to file appeal challenging the judgment and order of acquittal of Respondent/original accused No.2, passed by the Appellate Court i.e. Additional Sessions Judge, Jaysingpur reversing the order of conviction. Initially the Respondent/original accused No.2 was convicted for the offence punishable under sections 23 and 25 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act for contravening provisions of Section 6(c) of the said Act.

3. Being aggrieved by the order of the Appellate Court, present application for leave is preferred by the State.

4. It appears that there was non establishment of the fact that there was abortion for aborting the female foetus . This view was taken by the

Appellate Court on the premise that the substantive evidence of three Doctors i.e. PW-1, PW-2 and PW-3 goes to suggest that woman on whom abortion was done was initially taking treatment for bleeding and it was also opinion of the Doctors that it could have been natural abortion in the natural course. This was the main aspect held by the Appellate Court in coming to the conclusion that the charges against the Respondents were not established.

5. Apart from the above, it was also held by the Appellate Court that though the incident had taken place in the hospital, PW-1-Dr. Killedar did not record statement of mother-in-law of the woman and other nursing staff present in the hospital. Even these witnesses were not brought before the Trial Court.

6. Though PW-1-Dr.Killedar recorded the statement of the woman who was subjected to operation, she was not examined before the Trial Court. As such, the Appellate Court, finding the evidence deficient to establish the charges, acquitted the Respondents of the offence.

7. In the opinion of this Court, the view taken by the Appellate Court can not be treated as perverse so as to alter the same by allowing the State to proceed further with the appeal.

8. In the result, there is no substance in the present appeal and is dismissed and disposed of accordingly.

(A.R.JOSHI, J.)