

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.2395 OF 2016**

Dr. Sunil s/o Balasaheb Salunke,,  
Age-38 years, Occu:Medical Practitioner,  
R/o-Dandegaon, Tq-Kalamnuri,  
Dist-Hingoli.

**...APPLICANT**

**VERSUS**

- 1) The State of Maharashtra,  
Through Vimantal Police Station,  
Nanded, Tq. & Dist-Nanded,
- 2) Dr. Mohammed Asif Mohd. Ibrahim,  
Medical Officer, Nanded,  
Nanded Waghala,  
City Municipal Corporation, Nanded.

**...RESPONDENTS**

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Mr.Sanket S. Kulkarni Advocate for Applicant.  
Mr.D.R. Kale, A.P.P. for Respondent No.1.  
Mr.R.K. Ingole Patil Advocate for Respondent  
No.2.

...

**CORAM: A.V. NIRGUDE AND  
A.I.S. CHEEMA, JJ.**

**DATE : 5TH JULY, 2016**

**ORAL ORDER :**

1. This Criminal Application seeks quashing of Crime No.55 of 2016 registered at Airport Police Station, Nanded and subsequent charge-sheet filed, to the extent of Applicant herein. The Applicant is accused No.5 in this case and to the extent of him we would examine whether the action taken by the police is justifiable.

2. Initially, the Applicant had come to us for getting the offence quashed against him but in the meantime the charge-sheet was filed and the Court permitted him to amend the Petition. In such situation, we are able to look into merits of the case that stands against the Applicant.

3. The facts leading to the litigation, in short, can be stated as under:-

. On 14th March 2016 between 11.00 a.m. to

8.00 p.m. Jayashree, the victim, was subjected to illegal termination of her pregnancy of more than twenty weeks. The incident occurred at the dispensary of accused No.1. It is the case of the prosecution that Applicant, who is also a medical practitioner of Hingoli, had abetted the commission of offence.

4. With the help of learned counsel for the Applicant as well as the learned A.P.P., we went through the charge-sheet and found that the only allegation levelled against the Applicant is that on 14th March 2016 he accompanied the victim and her relatives to Nanded from Hingoli. This material is found in the statement of one Kishor Mandavkar, who admittedly did not see the Applicant at Nanded but he learnt through telephonic conversation that the Applicant had come to Nanded with the victim etc. After reaching Nanded, the victim was taken to an unknown Sonography Center where she was examined. It was

then found that the victim was carrying a female foetus. Thereafter she was subjected to illegal termination of pregnancy. The role attributed to the Applicant here is that he being a doctor and being a friend of brother of the victim, came with the victim to Nanded and guided her. However, there is no witness who stated that he saw the Applicant at Nanded, at the unknown Sonography Center at Nanded or at the dispensary of accused No.1. We requested the learned A.P.P. to go through material against the Applicant. The learned A.P.P. assured us that despite going through the charge-sheet, he did not find any other material against the Applicant. The learned A.P.P., however, suggested that at the time of trial, the witnesses would clarify further the role attributable to the Applicant. We are afraid, this argument is not acceptable to us. What is appearing on record, must convince us that if unrebutted it will result into conviction. Before we conclude this order, we also point out that the

prosecution alleged that the victim was subjected to Sonography examination for the purpose of knowing sex of her foetus. It is further alleged that the sex was disclosed to her and her relatives. Who ever did this, apparently committed offence punishable under P.C. & P.N.D.T. Act.

5. We therefore, allow the Criminal Application in terms of following order:

**O R D E R**

The F.I.R. No.55 of 2016 of Vimantal Police Station and subsequent charge-sheet filed, to the extent of present Applicant, stand quashed. Rest of the case as against other accused shall remain in-tact.

**[A.I.S. CHEEMA, J.]**

asb/JUL16

**[A.V. NIRGUDE, J.]**