

03. The applicant has approached this Court under section 482 of the Criminal Procedure Code, challenging the judgment passed by the Sessions Court, dismissing the Revision Application filed by the applicant and maintaining the order passed by the learned Magistrate by which the charge is ordered to be framed against the applicant for the offence under section 4(3) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereinafter referred as "the PC&PNDT Act, 1994") and Rule 9(4) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (hereinafter referred as "the PC&PNDT Rules, 1996"), punishable under section 23 of the PC&PNDT Act, 1994.

04. The non-applicant No.2 filed a complaint against the applicant alleging that the applicant is liable for the prosecution and conviction for the offence punishable under section 22 & 23 of the PC&PNDT Act, 1994. The allegations as per the complaint are:-

(i) In "F" Form prescribed under the proviso to section 4(3) of the PC&PNDT Act, 1994 and Rules 9(4) & 10(1-A) of the Rules, 1996, signature of the Doctor was not found below Column No.19.

(ii) The Sonography machine was not found in the hospital.

(iii) Copy of the PC&PNDT Act, 1994 in Marathi version as required by Rule 17(2) of the PC&PNDT Rules, 1996 was not kept in the hospital.

05. The learned Magistrate found no substance as far as the allegations in respect of point Nos.(ii) & (iii) above are concerned and discharged the applicant of the allegations of contravention of Rule 13 of the PC&PNDT Rules, 1996 read with section 23 of the PC&PNDT Act, 1994 and Rule 17(2) of the PC&PNDT Rules, 1996 read with section 23 of the PC&PNDT Act, 1994.

. However, the learned Magistrate concluded that the charge is required to be framed against the applicant for offence under section 4(3) of the PC&PNDT Act, 1994 read with Rule 9(4) of the PC&PNDT Rules, 1996 punishable under section 23 of the PC&PNDT Act, 1994.

. This order was challenged by the applicant before the Sessions Court in the Revision, which is dismissed by the learned Sessions Judge by the impugned judgment.

06. With the assistance of the learned Advocates for the applicant and non-applicant No.2 and the learned A.P.P., I have examined the documents placed on the record of the application. I find that the Form "F" is a

composite form, which provides for 19 columns which are required to be filled up and the name, signature and registration number of the Gynecologist/Radiologist /Director of the Clinic is required to be put below Column No.19. In continuation, form of declaration of the person undergoing pre-natal test/procedure is given which is required to be filled up. Signature/thumb impression of the person undergoing pre-natal diagnostic test/procedure is required to be put. In continuation further form of declaration of the Doctor/person conducting pre-natal diagnostic procedure/test, which is required to be filled up and name, registration number of seal of the Gynecologist/Radiologist/registered Medical Practitioner conducting the diagnostic procedure is required to be put below it.

. The photocopies of the forms of four patients, in respect of which, there are allegations in the complaint that they are not completely filled up are placed on record of the application at page Nos.63,64,65 and 66. In column No.2 of this form, registration number of Sonography center is given. Below Column No.19, the seal (rubber stamp) showing name and registration number of the Doctor is found. Below the declaration of Doctor, signature of the Doctor along with his seal/rubber stamp is found. The applicant has placed on record the copy of

the registration certificate issued under the PC&PNDT Act, 1994 in favour of the hospital, where the applicant had been conducting the test/procedure. This certificate shows that the applicant is authorized to operate the Sonography machine. The above facts are not disputed by the non-applicant No.2. It is undisputed that the applicant is a registered medical practitioner. In these facts, it cannot be said that there is any deficiency in maintaining the record as required by Rule 9(4) of the PC&PNDT Rules, 1996. The applicant, who is running the hospital and is also authorized to operate the Sonography machine and he has signed at the foot of the declaration at the end of Form "F" in respect of the four patients and his name and registration number are also given in the "F" Form. In these facts, the applicant cannot be prosecuted for the offence under section 4(3) of the PC&PNDT Act, 1994 read with Rule 9(4) of the PC&PNDT Rules, 1996, only because the applicant has not put his signature below Column No.19, which is on the same page of the Form. The learned Magistrate has not properly appreciated all the relevant aspects and the learned Sessions Judge has also failed to consider the relevant aspects and therefore the order passed by the learned Magistrate and the judgment passed by the learned Sessions Judge are unsustainable.

. Hence, the following order :-

(i) The judgment passed by the learned Sessions Judge in Criminal Revision Application No. 61 of 2014 on 08.05.2014 is set aside.

(ii) The order passed by the learned Magistrate in R.C.C.No.508 of 2011 on 18.02.2014 is set aside.

(iii) The proceedings of R.C.C. No.508 of 2011 filed by the non-applicant No.2 against the applicant are quashed.

(iv) Rule made absolute in the above terms. In the circumstances, the parties to bear their own costs.

[Z.A. HAQ,J.]