

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

CRIMINAL WRIT PETITION NO. 1061 OF 2013

The State of Maharashtra .. Petitioner

Versus

Sau. Minal D. Khalane & Anr. .. Respondents

Mr. K.S. Patil, Advocate for the petitioner.

Mr. Mukul Kulkarni, Advocate for respondent No.1.

Mr. A.K. Tiwari, Advocate for respondent No.2.

CORAM : A.V.NIRGUDE, J.

DATED : 01.03.2016

P.C. :-

1. Heard. The State of Maharashtra has challenged judgment and order dated 08.01.2013 passed by the learned Additional Sessions Judge, Amalner in Criminal Revision Application No.34 of 2011 holding that the complaint lodged by the Medical Officer, Cottage Hospital, Parola was not maintainable and thereby he quashed the complaint.

2. Complainant-Dr.Sambhaji Patil was admittedly working as a Medical Officer of Cottage Hospital, Parola. He received information that the respondent/accused were conducting pre-natal sonography examination of pregnant women for disclosing sex of fetus. Accordingly, a decoy was sent to disclose to the Doctor that she wanted to

find out sex of her fetus. As per the decoy patient, her sonography examination took place but respondent/accused could not find sex of the fetus and they asked the decoy patient to come back after one week. Apparently, the respondents committed violation of provisions of section 6 (b) of the Pre-Conception and Pre-Natal Diagnostic Techniques (**PCPNDT**) **Act**, 1994 (for short "said Act") and therefore a complaint could have been lodged against them by the competent authority appointed under the provisions of Section 17 of the said Act. Complainant Dr. Sambhaji Patil asserted in the complaint as well as in his deposition that he was appointed as appropriate authority under the provisions of section 17 of the said Act. He also produced notification in support of his case. Learned Sessions Judge held that his statements as well as notification did not make out a case that Dr. Sambhaji Patil was appointed as an appropriate authority.

3. I went through the complaint, deposition as well as notification. The notification speaks of appointment of Superintendent of Rural/Cottage hospital as appropriate authority. In view of this Dr. Sambhaji Patil ought to have stated that he was working as a Superintendent of such hospital and thereby he was appointed as appropriate authority, but Dr. Sambhaji Patil did not state anywhere that he was a Superintendent

of Rural/Cottage hospital. He simply stated that he was a Medical Officer. The post of a Medical Officer is different than the post of a Superintendent. Therefore, the criminal writ petition should fail.

4. The Criminal Writ Petition is dismissed.

[A.V.NIRGUDE,J.]