

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 269 OF 2017
(for Leave to file Appeal)**

Mumbai Municipal Corporation (M.M.C.)Applicant
Versus
Dr. Savita S. Chavan & Ors.Respondents

Mrs. Teja Katdare, Sr. Advocate i/b. Krunal Waghmare for the applicant.

Mrs. N.S. Jain, APP for Respondent No. 3/State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 06th NOVEMBER, 2017***

P.C. :

1. By this application, the applicant has sought leave to challenge the judgment dated 27th March, 2017 whereby, the learned Metropolitan Magistrate, 41st Court, Shindewadi, Dadar, Mumbai had acquitted the applicants of offences under Sections 19(4), 29 Rule 17(1), 17(2) r/w. Section 23 of Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994.

2. Heard Mrs. Teja Katdare, learned counsel for the applicant and Mrs. N.S. Jain, APP for the State. Perused the records, the impugned judgment as well as the notes of evidence which are placed on record.

3. PW1-Dr. Sachin A. Bhosale, an appropriate authority appointed under the said Act had deposed that he had inspected the hospital on 12th July, 2011 and found that the respondent no.1 who was the owner

of respondent no.2-Hospital had not maintained 'F' forms and registration certificate. The names of the Sonologists as well as the board stating that 'disclosure of sex of foetus is prohibited' were not displayed. He had further deposed that he had once again visited the hospital on 14th September, 2011 and had seized OT register. He had deposed that the respondents had carried out DNC procedure without registration under Medical Termination of Pregnancy (MTP) Act.

4. It is pertinent to note that the complaint does not make any reference of visit on 14th September, 2011 and it does not contain any allegations about violations of provisions under the MTP Act. As regards the visit on 12th July, 2011, the records reveal that no panchnama was drawn in presence of independent witness. The learned Magistrate has taken note of this fact and had also considered the fact that there is inconsistency in the evidence of the prosecution witnesses with regard to material aspects.

5. Having gone through the impugned judgment and the notes of evidence, in my considered view, the view taken by the learned Magistrate is probable. The evidence on record does not disclose the essential ingredients of the offence. Hence, the learned Magistrate was justified in acquitting the respondents/accused. The findings of the learned Judge are based on the evidence on record and are neither illegal nor perverse. The order does not warrant interference. Hence, application for leave to appeal is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)