

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

**CRIMINAL APPLICATION NO. 275 OF 2013
(for Leave to file Appeal)**

The State of Maharashtra	Applicant
Versus	
Dipak Maruti Tarlekar	Respondent

Mr. Prashant Jadhav for the applicant.
Mr. A.S. Khandeparkar with Prerak Sharma with Amogh
Karandikar i/b. Khandeparkar and Associates for respondent.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 14th NOVEMBER, 2017***

P.C. :

1. By this application, the State has sought leave to challenge the judgment dated 06th May, 2013 in Criminal Appeal No. 104 of 2012 whereby the learned Additional Sessions Judge, Sangli allowed the appeal and set aside the order of conviction passed by the learned JMFC, Tasgaon in R.C.C. No. 38 of 2011 holding the respondent herein guilty of violating rule 9(4) and 17(2) of The Pre Conception and Pre Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 (for short 'PCPNDT Act').

2. One of the grounds on which the conviction was set aside was that Dr. Hankare-PW1 was not an authorised person to lodge complaint in terms of Section 28 of the PCPNDT Act.

3. Section 28(a) provides that no court can take cognizance of an offence under this Act except on a complaint made by an Appropriate Authority concerned or any officer authorised in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority.

4. It is the case of the prosecution that by letter dated 21st February, 2011 (exhibit-16), the District Medical Officer had authorised Dr. Hankare-PW1 to take appropriate legal action against the respondent. The learned APP has not been able to satisfy that the District Medical Officer was an appropriate authority appointed under Section 17 of the PCPNDT Act. He concedes that no such notification was placed before the Trial Court or the Appellate Court. No such notification is also placed before this Court.

5. In the light of the above fact, the District Medical Officer, not being an appropriate authority, was not empowered to delegate powers to Dr. Hankare-PW1 to lodge complaint under PCPNDT Act. The findings of the learned Judge are based on the evidence on record and are neither illegal nor perverse. The view taken by the learned Sessions Judge is probable. Hence, the learned Sessions Judge was justified in acquitting the respondent/accused. The order does not warrant interference. Hence, application for leave to appeal is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)