

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4583 OF 2017**

Prashant Pandurang Ingale & Anr. ...Petitioners
Versus
The State of Maharashtra & Anr. ...Respondents

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Mr. Manoj Mohite, senior counsel i/b. Mr. Raghvendra Kulkarni for the
Petitioners.

Mr. H.J. Dedhia, APP for the Respondent No.1-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED: 13th NOVEMBER, 2017.**

P.C.:-

The Petitioners herein who are accused in R.C.C. No.724 of 2015 have challenged the order dated 15th July, 2017 whereby the learned 5th Judicial Magistrate, First Class, Solapur has ordered framing of charge against the aforesaid Petitioners under the provisions of Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994 and order dated 25th September, 2017 of the learned Sessions Judge, Solapur dismissing the Revision Application No.90 of 2017 and confirming the order of the learned Magistrate.

2. Mr. Manoj Mohite, the learned senior counsel for the Petitioners submits that the Respondent No.2 was not an appropriate authority under the Act and hence was not competent to file complaint. He further submits that this point was specifically raised

before the Trial Court and Trial court has held that the said issue needs to be determined on merits. He further submits this issue was once again raised in Revision Application No.90 of 2017 however, the learned Sessions Judge has not rendered any findings on the same.

3. Mr. H.J. Dedhia, the learned APP concedes that the learned Sessions Judge has not rendered findings on the issue which goes to the root of the matter. Hence, with consent of both the parties the impugned order dated 25th September, 2017 in Revision Application No.90 of 2017 is set aside and the matter is remitted to the Court of Sessions, Solapur with direction to hear the parties and to decide the issue whether the Respondent No.2 was appropriate authority and was competent to file complaint under the PCPNDT Act. The learned Sessions Court shall decide the matter as expeditiously as possible, in any case within a period of two months from the date of receipt of copy of this order. All other points and contentions are expressly kept open.

4. The Writ Petition stands disposed of accordingly. All concerned to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)