

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

**CRIMINAL APPLICATION NO. 112 OF 2018
IN
CRI. APPEAL (ALP) NO. 376 OF 2016**

Municipal Corporation of Greater Mumbai ... **Applicant**

V/s.

Dr. Hastimal Mohanlal Jain & Anr. ... **Respondents**

Ms. Teja Katdare a/w Kunal Waghmare for the Applicant.
Mr. A.R. Kapadnis APP for the Respondent/State.
Mr. M.A. Hebballi for the Respondent No.1.

**CORAM : A.S.GADKARI, J.
DATE : 07th MARCH, 2018**

P.C.:

. This is an application for interim relief seeking stay to the execution, implementation and operation of clause No.5 of the impugned Order dated 25.04.2016 passed by the learned Additional Sessions Judge in Criminal Appeal No. 1004 of 2014 thereby directing to release the muddemal property after the appeal period is over and for permission to keep the custody of two sonography machines mentioned in prayer clause (b) of the present application.

2 The record indicates that the Respondent No.2 was convicted by the Metropolitan Magistrate, 41th Court, Shindewadi, Dadar, Mumbai for an offence punishable under Sections 4(3), 29, Rule 9(4) punishable under Section 23 of Prenatal Diagnostic Techniques (Regulation and prevention of misuse) Act, 1994

amended as the Pre-Conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection Act, 2003) and was sentenced to suffer imprisonment for six months and pay a fine of Rs.5,000/- by its judgment and order dated 07.10.2014 in Case No. 4100114/SW/2011. In an appeal preferred by the Respondent No.1 bearing Criminal Appeal No. 1004 of 2014, the learned Additional Sessions Judge, Greater Mumbai by the impugned Order dated 25.04.2016 was pleased to acquit the Respondent No.1 for charges framed against him.

3 As the Appellate Court has acquitted Respondent No.1 from the charges framed against him, in my opinion the said machines can be returned to the Respondent No.1 provided he gives an undertaking to this Court along with an Indemnity Bond to the effect that in case the present appeal is decided against the Respondent No.1, he will produce the said machineries or will pay the cost of the said machines which was prevailing on 07.10.2014 i.e. the date of his conviction.

4 Application is disposed off in the aforesaid terms.

(A.S.GADKARI, J.)