

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.305 OF 2019

DR.SHRI.DILIP ANNASO PATIL)...APPELLANT

V/s.

DR.SMT.NIRMALA AVINASH JOSHI & ORS.)...RESPONDENTS

Mr.S.A.Mane, Advocate for the Appellant.

Mr.Dilip Bodake, Advocate for Respondent Nos.1, 3 and 4.

Mr.V.B.KondeDeshmukh, APP for the Respondent - State.

**CORAM : INDRAJIT MAHANTY &
A. M. BADAR, JJ.**

DATE : 25th JUNE 2019

P.C. :

1 Heard the learned counsel appearing for the appellant/original complainant. We have perused the impugned judgment and order of acquittal of respondents for offences under the Pre-conception and Pre-natal Diagnostic Technique

(Prohibition of Sex Selection) Act, 1994, recorded by the learned Additional Sessions Judge, Kolhapur, on 6th March 2018, in Sessions Case No.171 of 2013.

2 The learned trial court came to the conclusion in paragraph 13 of the impugned judgment and order that at the relevant time, the post of Civil Surgeon was in existence and the PW1 i.e. complainant was not authorized by the Civil Surgeon to lodge the complaint. The learned counsel appearing for the appellant/original complainant is not disputing the fact that the complainant was not authorized by the Civil Surgeon to lodge the complaint. The learned counsel for the complainant further accepted the fact that apart from assertion in the complaint that the complainant is an Appropriate Authority under the Pre-conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994, no material was produced on record of the trial court to show that he was appointed as such, and therefore, was entitled to file the complaint.

3 Section 2(a) of the Pre-conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994, defines the term “Appropriate Authority” as the authority appointed under Section 17 of the said Act. As per provisions of Section 28 of the Pre-conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994, court cannot take cognizance of an offence under the said Act except on a complaint made by the Appropriate Authority or any officer authorized in that behalf by the Central or State Government, as the case may be, or the Appropriate Authority. In the case in hand, the learned trial court has categorically concluded that the complaint as framed and filed is not maintainable, as the same was not filed either by the Appropriate Authority or an officer authorized by the Appropriate Authority. Nothing is pointed out to us to demonstrate that the complaint is validly maintainable in terms of provisions of Section 28 of the Pre-conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994.

4 In this view of the matter, the appeal is devoid of merits, and therefore, the same is dismissed.

(A. M. BADAR, J.)

(INDRAJIT MAHANTY, J.)