



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 255 OF 2025

Manish wd/o Shivaji Sanap,
Age 34 years, Occ. Household,
R/o Ardha Masala, Tq. Georai,
Dist. Beed.

... Applicant

Versus

The State of Maharashtra,
Through A.P.I. Police Station,
Pimpalner, Tq. and Dist. Beed

... Respondent

.....
Mr. R. G. Hange h/f Mr. A. R. Hange, Advocate for Applicant.
Mr. S. A. Gaikwad, APP for Respondent - State.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 24 NOVEMBER 2025
PRONOUNCED ON : 27 NOVEMBER 2025

ORDER :

1. In this revision, there is challenge to the order of framing charge dated 12.02.2025 passed by learned Additional Sessions Judge, Beed in Sessions Case No. 254 of 2022 below Exhibit 146.

2. In nutshell, present revisionist was charge-sheeted on receipt of complaint from one Mahadev Dhakne a Police Officer posted at Pimpalner Police Station, alleging that, 8 to 9 accused were found to be responsible for culpable homicide not amounting to murder of one Sitabai Ganesh Gadhe, who was pregnant. They were

all involved in first getting sex determination done, which was in violation to the provisions of Medical Termination of Pregnancy (MTP) Act and then performing her abortion. She died and autopsy revealed death due to “hemorrhagic shock due to intraperitoneal haemorrhage due to traumatic uterine perforation”.

After completion of investigation, accused persons were charge-sheeted and are sought to be tried vide Sessions Case No. 254 of 2022. Learned trial court was pleased to frame charge by order dated 12.02.2025.

Feeling aggrieved by the above, accused no.5 Manisha (present applicant) has pressed into service instant revision questioning the order of framing charge.

3. Learned counsel Shri Hange would submit that there is false implication. That, present applicant has no connection with alleged death of Sitabai Ganesh Gade. That, she is neither relative nor an acquaintance. That, her role is not crystallized, moreover merely because some witnesses have named her, she is also arraigned as accused. Learned counsel was very vociferously submitted that in spite of no prima facie material in the charge-sheet to make her face trial, learned trial court passed an order of framing

charge. He was very emphatic in submitting that even in the charge, no allegations are levelled for commission of offence under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. He pointed out that simply by invoking common intention, applicant is tried to be roped in. That, in fact, revision applicant was not present on the day of alleged abortion and therefore, according to him, making revisionist, who is a lady, to face trial would amount to injustice. For above reasons, he urges to allow the revision.

Learned counsel seeks reliance on judgment of Hon'ble Apex court in case of ***Mahendra Awase v. State of Madhya Pradesh***, in Criminal Appeal No. 221 of 2025.

4. Learned APP would object on the ground that applicant is named. Her role is crystallized for being involved in getting sex determination done and moreover investigation revealed that it was done at her place. Apparatus and machinery required for sex determination were seized from her house. There is panchanama to that extent. That, when her name is reflected in the statement of witnesses, it is his submission that she being instrumental in sex determination, it is not open for her to submit that there is no material. Learned APP further pointed out that, now charge is already framed and plea of revision applicant being recorded, she is

not entitled for discharge.

5. Heard. Perused the papers and record including impugned order. Perused the charge-sheet. On 06.06.2022, accidental death of Sitabai Ganesh Gadhe resident of Bakarwadi was registered. In inquiry of the same, it was revealed that, Sitabai, who already had three daughters, was again pregnant. Her in-laws as well as her relatives were desirous of having a male child and therefore, they decided to get sex determination done. Accordingly, they approached present applicant resident of Georai, which revealed that the foetus was female, and therefore, they further decided to abort it and accordingly, after inquiry, took Sitabai to one Seema for abortion by paying her Rs.35,000/-. On 05.06.2022, procedure of abortion was done, but on account of excessive bleeding, she was brought to Jijau hospital, Beed and later on shifted to civil hospital, Beed, but she died for the reason reflected in the post mortem report.

Based on report of Mahadeo Nanasaheb Dhakne, P.I., Pimpalner police station, report came to be lodged on 08.06.2022 resulting into registration fo crime bearing no. 70 of 2022 for offence punishable under sections 304, 312, 314, 315, 316, 420, 201 read with Section 34 of the Indian Penal Code and under the provisions of Sections 3, 4(B), 5 & 6 of the Medical Termination of Pregnancy

(MTP) Act, 1971 and Sections 4, 3, 5, 6, 22, 23, 25 and 29 of the Maharashtra Regulation of Use of Pre-Natal Diagnostic Techniques Act, 1988.

6. It is in above backdrop, investigation was carried out and Pimpalner police charge-sheeted as many as 08 accused including present revisionist, who is shown as accused no.5 before Sessions Court, Beed. Learned trial Judge proceeded to frame charge at Exh. 146 by order dated 12.02.2025.

7. Before adverting to merits of the case, it would be just and proper to spell out settled legal position while considering discharge application under Sections 227 and 228 of the Cr.P.C. It is fairly settled position that, at such stage, Court dealing with such application is merely expected to determine existence of *prima facie* material for proceeding to frame charge and make accused persons face trial. Material gathered during investigation is expected to be sifted with limited purpose to find out whether there are sufficient grounds to proceed against accused. Neither in-depth analysis nor meticulous analysis of evidence is expected at such stage. Thus, the only duty of Court is to ascertain whether there is *prima facie* material suggesting existence of essential ingredients for the offences, which are alleged to be committed.

8. Above position has been time and again reiterated since the cases of *State of Bihar v/s Ramesh Singh (1977) 4 SCC 39*; *Union of India v. Prafulla Kumar Samal and Another (1979) 3 SCC 4*, and a decade back in the cases of *Sajjan Kumar v. Central Bureau of Investigation (2010) 9 SCC 368*; *Amit Kapoor v. Ramesh Chander and another (2012) 9 SCC 460*; *State of Tamil Nadu (By Inspector of Police Vigilance and Anti-Corruption) v. N.Suresh Rajan and Others. (2014) 11 SCC 709*; *Asim Shariff v. National Investigation Agency (2019) 7 SCC 148*; and *Ram Prakash Chadha v. State of Uttar Pradesh (2024) 10 SCC 651*.

9. Here, trial court has already framed charge. Learned counsel for the applicant pointed out that there is no material in the entire charge-sheet to make her face trial. But, still charge is framed and moreover, revisionist is not impleaded for commission for offence under the provisions of PCPNDT Act.

10. In the light of above submissions, charge-sheet is visited to ascertain whether there is prima facie material against revisionist to make her face trial. As pointed out by learned APP, investigation revealed that the very act of determination of sex is allegedly done at the residence of present applicant. Panchanama to that extent finds

place in the charge-sheet, wherein it is stated that, apparatus and machinery for sex determination was found along with other articles and cash. Further, on going through the statements of some of the witnesses, name of the applicant does figure for being approached for sex determination, which was allegedly done on 02.06.2022 at Georai. Resultantly, it cannot be said that there is no material against revision applicant to face trial.

11. Another submission is that, learned trial court hurriedly frame charge and moreover there is no charge for violation of provisions of PCPNDT Act. Learned APP countered by submitting that before trial commences, prosecution would urge to add or alter charge.

12. Admittedly, here, trial court by impugned order already has framed and explained charge. Copy of the same is also placed on record. The Hon'ble Apex Court in the recent judgment of ***Directorate Of Revenue Intelligence v. Raj Kumar Arora & Ors.*** in Criminal Appeal No. 1319 of 2013, has observed as under :-

“ 154. We are in agreement with the view that once charges have been framed by the Trial Court in exercise of the powers under Section 228 CrPC, the accused cannot thereafter be discharged, be it through an exercise of the powers under Sections 227 or 216 Cr.PC. It is reiterated

that the language of Section 216 Cr.PC provides only for the addition and alteration of charge(s) and not for the deletion or discharge of an accused. If the Legislature had intended to empower the Trial Court with the power to delete a charge at that stage, the same would have been expressly and unambiguously stated. Therefore, at such a stage of the trial, the accused must necessarily either be convicted or acquitted of the charges that were so framed against him. No shortcuts must be allowed.”

13. Taking support of above observations of the Hon’ble Apex Court, here, as charge is already shown to be framed, explained, it is not open for this court to interfere. As regards to the submissions of non inclusion of provisions of PCPNDT Act, as rightly submitted by learned APP, addition or alteration could be done before trial commences.

14. For above reasons, there being no merits in the revision, I proceed to pass the following order :

ORDER

The revision application is dismissed.

(ABHAY S. WAGHWASE, J.)