



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.684 OF 2025

Satish s/o Balasaheb Gaware,
Age 37 yrs. Occ. Medical Practitioner,
R/o Teachers Colony, Dhavleshwar,
Tq. and Dist. Jalna.

..Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Pundliknagar Station, Tq and Dist.
Aurangabad.
2. Dr. Amarjyoti Jayant Shinde,
Age 52 yrs. Occ. Medical Officer,
R/o Samarth Nagar, Plot no. 83, Sai Shriram
Residency, Chhatrapati Sambhajnagar. ..Respondents
(Informant)

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Mr. R. G. Hange, Advocate for Applicant.
Mr. S. K. Shirse, APP for Respondent-State.
Mr. A. P. Bhandari, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 20th APRIL, 2026.**

JUDGMENT:-

1. The applicant seeks quashment of proceeding in Regular Criminal Case No.1919/2024 pending before Judicial Magistrate First Class, Aurangabad, which emanates from Crime No.177/2024 registered with Pundliknagar Police Station, Dist. Aurangabad for offence punishable under Sections 420, 312, 313 r/w 34 of Indian Penal Code, Section 33(2) of Maharashtra Medical Practitioner Act, Sections 23, 25, 3-B of Pre-conception and Pre-natal Diagnostic

Techniques (Prohibition of Sex Selection) Act, 1994 (for short 'PCPNDT Act') and Sections 4 and 5 of Maharashtra Termination of Pregnancy Act, 1971 (for short 'MTP Act').

2. The investigation was set in motion on the basis of information given by respondent no.2/Medical Officer alleging that in pursuance to secrete information regarding contravention of PCPNDT Act, squad raided premises at Deogiri Apartment, Chhatrapati Sambhajnagar. Upon search of premises, seven persons named in FIR were found at the spot. The objectionable material like Laptop, Aqua Vision Electrode Gel, Aqua Vision Ultrasound Transmission Gel, probe with its bag, mobile instruments and cash amount were seized. Upon search of Tab, images depicting Sonography of foetus were found. On the basis of aforesaid information, offence came to be registered against in all seven accused persons.

3. The investigation was progressed and finally charge-sheet came to be filed against in all 19 accused persons including applicant. The summary of charge-sheet describes role of applicant that he helped accused Satish Sonawane in purchase of probe machine. The basis for such allegation is that accused Satish Sonawane gave information during his police custody that applicant/accused supplied probe machine to him.

4. Mr. Hange, learned Advocate appearing for applicant submits that entire charge-sheet is bereft of incriminating material as against applicant/accused. Except so called information given by accused no.12/Satish Sonawane during course of his police custody that probe was supplied by applicant, there is no material to bring home charge against applicant.

5. Per contra, learned APP submits that during course of investigation, police found that applicant is indulged in illegal supply of probe or sonography machines. As such, he is liable to be prosecuted under Sections 23, 25 and 3-B of PCPNDT Act.

6. Having considered submissions advanced by learned Advocates appearing for respective parties and after perusal of FIR and charge-sheet, it is discernible that applicant is not named in FIR. He is directly shown as accused in charge-sheet. His role in commission of offence is sought to be brought on record in summary of charge-sheet only on basis of information given by accused/Satish Sonawane during course of his police custody that applicant had bought three probe machines from Delhi and one was provided to accused Satish Sonawane, which is seized during course of raid/decoy operation.

7. The entire charge-sheet is silent about role and participation of applicant. It is not case that statement of accused Satish

Sonawane was independently recorded as approver or there is any other evidence showing that accused Satish Sonawane procured probe from applicant. Even there is nothing to suggest that applicant was illegally in possession of probe and in contravention of Section 3-B of PCPNDT Act, he sold instrument/equipment to any person not registered under Act. In light of allegation against applicant, reference can be given to Section 3-B of PCPNDT Act, which reads thus:

“3-B. Prohibition on sale of ultrasound machine, etc., to persons, laboratories, clinics, etc., not registered under the Act – No person shall sell any ultrasound machine or imaging machine or scanner to any other equipment capable of detecting sex of foetus to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.”

8. Sections 23 and 25 of PCPNDT Act deals with offences and penalties. Section 23 provides punishment for contravention of provisions of Act and Rules made thereunder by any Medical Practitioner, Medical Geneticist, Gynaecologist or owner of Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or by any person employed or engaged by such centre, laboratory or clinic. Section 25 provides penalty for contravention of provisions of Act by any person for which no specific provision is made under Act and Rules. In that view of matter, contravention of Section 3-B of PCPNDT Act would be punishable under Section 25 of PCPNDT Act.

9. In light of provisions under PCPNDT Act and Rules made thereunder to make an offence under Section 3-B, evidence needs to be brought on record to show that accused indulged in illegal sell of ultrasound machines to any person, laboratory or clinic, who is not registered under Act. However, entire charge-sheet is silent as to the basis of accusations made against applicant/accused. Although gist of prosecution is based on so called information/statement given by accused Satish Sonawane during course of police custody, such statement doesnot reflected anywhere in charge-sheet. The statement of accusation in summary cannot, by itself, be treated as charge-sheet unless it is supported by evidence in form of witness statements or documents substantiating accusation.

10. The learned Advocates appearing for respondents fairly concedes that except summary of charge-sheet, there is no material against applicant.

11. At this stage, reference can be given to observations of Supreme Court in case of ***State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.***¹. In concluding paragraph no.102, Supreme Court observed “where uncontroverted allegations made in FIR or complaint and evidence collected in support of same do not disclose commission of any offence and make out a case against accused,

¹ AIR 1992 SC 604.

High Court is empowered to exercise inherent powers under Section 482 of Code of Criminal Procedure and quash criminal proceeding to prevent abuse of process of law.” This Court finds that in light of aforesaid observations, if material in charge-sheet is perused, there is nothing to support allegations made in charge-sheet that would disclose commission of offence at the hands of applicant/accused.

12. In result, Criminal Application stands allowed in terms of prayer Clause (B).

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/April-2026