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CRL RC No. 1005 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL RC No. 1005 of 2021

K.Ramachandran
Owner,
M/s Mahalakshmi Nursing Home,
Periyakuruchi,
Neyveli-2,
Cuddalore District.

..Petitioner

Vs

Appropriate Authority for Sub District
Under Pre Conception
Pre-natal Diagnostic Techniques,
(Prohibition of Sex Selection) Act, 1994 and
The Chief Medical Officer,
Virudhachalam,
Cuddalore District.

..Respondent

Prayer : Criminal Revision Case is filed under Section 397 read with 401 of Code of Criminal Procedure, to call for the records pertaining to the order and judgment dated 27.08.2021 made in Crl.A.No.13 of 2021 on the file of Learned Principal Sessions Judge, Cuddalore, confirming the conviction and sentence imposed by the learned Chief Judicial Magistrate, Neyveli in CC.No.68 of 2014 dated 19.01.2021 and set aside the same by allowing the above Criminal Revision Petition.



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For Petitioner:

Mr.K.Sivabalan
for Mr.M.D.Babu

For Respondent:

Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been preferred as against the Judgment passed in Crl.A.No.13 of 2021 on the file of the Principal District and Sessions Judge, Cuddalore, thereby confirming the order of conviction and sentence imposed by the District Munsif-cum-Judicial Magistrate, Neyveli, in C.C.No.68 of 2014 dated 19.01.2021, for the offences punishable under Sections 23(1) (2 counts) and 25 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (hereinafter referred to as the “PCPNDT Act), Sections 5(2) and 5(3) of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the “MTP Act”) and Section 312 of IPC.

2. The case of the prosecution is that the respondent conducted a surprise visit at M/s.Chackkarapani Nursing Home, Tittaguidi, which is run by one Dr.Jothimullanathan, where a 16 years old girl, viz., Maheswari, undergone medical termination of pregnancy on 05.02.2014, with a history of bleeding due to a missed abortion. During enquiry, the Doctor informed that the said



Maheeswari had produced a scan report obtained from the petitioner's nursing home dated 04.02.2014, wherein she was allegedly informed orally about the sex of the foetus as female. It is further stated that, as per the direction of the petitioner's hospital, she had consumed abortion tablets on her own, which resulted in heavy bleeding, and thereafter was admitted to M/s.Chackkarapani Nursing Home, Tittaguidi. The same was recorded by the said Doctor at M/s.Chackkarapani Nursing Home, Tittaguidi, in Form-C as "abortion pills failure". Therefore, on 07.02.2014, the respondent team inspected the petitioner's hospital and found that the hospital was in practice of revealing the sex of foetus to antenatal mothers undergoing ultrasound scan procedures at their centre. On verification, it was found that, in respect of the antenatal mother Maheeswari, the genetic test or analysis of scan procedure was not recorded in Nominal Register or in the Form-F Register, which is mandatory under the PCPNDT Act and a notice was issued to the petitioner's hospital. Further, it was found that the petitioner's hospital had not obtained prior permission from the competent authorities for performing MTP. Further, the sex of the foetus of another patient, viz., Agastia was disclosed to her and that MTP was done after receipt of Rs.22,000/-. Therefore, the respondent filed a complaint and the same has been taken cognizance by the Trial Court.



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3. In order to prove the complaint, the prosecution had examined P.W.1 to P.W.18 and marked Exs.P1 to P24. The prosecution had also produced M.O.1 and M.O.2. On the side of the petitioner, no witnesses were examined and no documents were marked.

4. On perusal of the oral and documentary evidence, the Trial Court found the petitioner guilty and convicted for the offences under Section 23(1) (2 counts) of PCPNDT Act and sentenced to undergo simple imprisonment for a period of one month and to pay a fine of Rs.1,000/- . For the offence under Section 25 of PCPNDT Act, she was sentenced to undergo rigorous imprisonment for a period of two years. Further, for the offence under Section 5(2) of MTP Act, the petitioner was sentenced to undergo rigorous imprisonment for a period of two years ; for the offence under Section 5(3) of MTP Act to undergo simple imprisonment for a period of three years and for the offence under Section 312 of IPC, to pay a fine of Rs.3,000/-. Aggrieved by the same, the petitioner preferred an appeal. The Appellate Court dismissed the appeal and confirmed the order of conviction and sentence imposed by the Trial Court. Hence, the present Criminal Revision Case has been filed.



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5. The learned counsel appearing for the petitioner submitted that, even according to the prosecution, though the petitioner had conducted ultrasound scanning in his nursing home, he did not do any medical termination of pregnancy on either P.W.16 or P.W.17. Further, P.W.16 turned hostile and did not support the case of the prosecution. The learned counsel also pointed out that P.W.11, in his deposition, had categorically deposed that the sex of the foetus has not been mentioned in the scan report of P.W.16 and further stated that the scan report of P.W.17 was not marked before the Trial Court. P.W.3 had performed termination of pregnancy in respect of P.W.16 when the foetus was at 20 weeks. Admittedly, the foetus of P.W.16 and P.W.17 was much below the stage therefore, the sex of foetus could not be determined at that budding stage. Even according to the prosecution, the petitioner did not do any termination of pregnancy and as such the charges under Sections 5(2) and 5(3) of MTP Act would not be attracted as against the petitioner.

6. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that P.W.3 categorically deposed about the termination of pregnancy of P.W.16 when she was about three months pregnant.



It was submitted that P.W.16 had come to the hospital with bleeding after attempting to terminate her pregnancy by consuming abortion pills. P.W.11, who had inspected the petitioner's hospital, deposed about the seizure and sealing of the ultrasound scan machines. P.W.12, who conducted the medical termination of pregnancy in respect of P.W.17, deposed that P.W.17 was admitted as an in-patient and had stated that the sex of foetus was revealed to her on 08.05.2014. She further deposed that tablets were inserted at her uterine cervix and also administered for termination of pregnancy, which resulted in bleeding an abdominal pain, necessitating hospitalization. Therefore, the respondent proved the charges beyond reasonable doubt and the Trial Court rightly convicted the petitioner, which was subsequently confirmed by the Appellate Court. The concurrent findings of both the Courts below do not warrant interference by this Court.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. The petitioner was convicted for the offences under Sections 23(1) (2 counts) and 25 of the PCPNDT. Act, Sections 5(2) and 5(3) of the MTP Act



and Section 312 of IPC. Even according to the prosecution, the petitioner did not conduct any medical termination of pregnancy in respect of P.W.16 and P.W.17. Though P.W.16 turned hostile, her pregnancy was terminated by P.W.3 on 07.02.2014 and the pregnancy of P.W.17 was terminated by P.W.12. However, there is no evidence to show that the petitioner was running a nursing home in the name of M/s.Mahalakshmi Nursing Home and he had conducted scan tests therein and disclosed the sex of the foetus . Thereafter, the pregnancies were terminated by P.W.3 and P.W.12 respectively.

9. Insofar as the offences under the MTP Act is concerned, the termination of pregnancy of P.W.16 and P.W.17 were carried out by P.W.3 and P.W.12 in their respective hospitals. Therefore, no termination of pregnancy was undertaken at the petitioner's hospital. Therefore, the charges under Section 5(2) and 5(3) of MTP Act were not proved by the prosecution. Insofar as the charge under Section 312 of IPC is concerned, after knowing the sex of the foetus, P.W.16 and P.W.17, on their own, consumed tablets in an attempt to terminate their pregnancies. However, they suffered with bleeding and were subsequently treated by P.W.3 and P.W.12 respectively. Therefore, there is no evidence to show that the petitioner had advised or administered tablets for



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termination of pregnancy. However, the prosecution has proved the charge under Section 23(1) of PCPNDT Act. Since P.W.16 turned hostile, the conviction can be sustained only one count under Section 23(1) of the PCPDT Act .

10. In view of the above, the conviction under Section 23(1) (2 counts) of the PCPNDT Act is modified to one count under Section 23(1) of the PCPNDT Act. Insofar as the sentence is concerned, considering the age of the petitioner, the sentence is modified to the period which is already undergone by the petitioner. The petitioner is acquitted for the charges under Section 5(2) and 5(3) of MTP Act and Section 25 of the PCPNDT Act and Section 312 of IPC.

11. In the result, this Criminal Revision Case is partly allowed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

LPP



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To

- 1.The Principal District and Sessions Judge,
Cuddalore.
- 2.The District Munsif-cum-Judicial Magistrate,
Neyveli.
- 3.Appropriate Authority for Sub District Under
Pre Conception Pre-natal Diagnostic Techniques,
(Prohibition of Sex Selection) Act, 1994 and
The Chief Medical Officer, Virudhachalam,
Cuddalore District
- 4.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN J.

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