

n0 SLP(Crl) No. 2226 of 2014

ITEM NO.58

COURT NO.7

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No. 2226/2014

(Arising out of impugned final judgment and order dated 04/07/2013
in MCRLC No. 4393/2013 passed by the High Court of Madhya Pradesh
at Indore)

STATE OF M.P.

Petitioner(s)

VERSUS

MANVINDER SINGH GILL
(with office report)
WITH
SLP(Crl) No. 2229/2014
[STATE OF M.P. V. HARISH CHHABRA]
(With Office Report)

Respondent(s)

Date : 03/08/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s)

Mr. Darpan Bhuyan, Adv.
Mr. C. D. Singh, A.O.R.

For Respondent(s)

Mr. Puneet Jain, Adv.
Ms. Pratibha Jain, A.O.R.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the petitioner-State
as well as the counsel for respondents.

By the impugned order, the High Court after

Signature Not Verified

Digitally signed by
Kalyani Gupta
Date: 2015.08.05

17:30:20 IST
Reason:

noticing that the person who prosecuted the

respondent did not come within the definition of

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"Appropriate Authority" as stipulated under Section

17(3) of the Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994, [hereinafter referred to as 'the Act'] held that the complaint was not maintainable.

We perused Section 28(1) (a) of the Act which reads as under:-

"28. Cognizance of offences. (1) No court shall take cognizance of an offence under this Act except on a complaint made by-- (a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or State Government, as the case may be or the appropriate authority;"

When read carefully it emerges that the Authority is vested in three officers, namely, the Appropriate Authority, i.e. the authority as notified under Section 17(3) of the Act apart from any officer authorised in that behalf either by the Central Government or the State Government or by the concerned Appropriate Authority notified under Section 17(3) itself.

In the case on hand, however, the High Court has noted that the officers who were authorised by the concerned appropriate authorities to help the Appropriate Authority to monitor and have effective implementation of the Act cannot construed as

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officers authorised in that behalf as provided under Section 28(1) (a) of the Act. The High Court had, therefore, no other go except to set aside the proceedings initiated at the instance of the petitioner and while setting aside the same gave liberty to the petitioner to take appropriate recourse under the provisions of the Act.

Learned counsel for the petitioner, however, drew our attention to paragraph 11 of the impugned judgment wherein while considering Section 17(3) (b) and (28) (1) (a) of the Act, the High Court stated that action under the Act can be taken by the Court only when a complaint is made by "the appropriate authority" or "by any officer authorised by the Central Government or State Government, otherwise such action would not be valid in law. While stating so, the High Court has omitted to note that under Section 28(1) (a) any officer authorised by the "Appropriate Authority" notified under Section 17(3) would also be entitled to initiate action under the Act.

While clarifying the said position, since we do not find any flaw in the ultimate order of the High Court based on the facts noted in the case on hand,

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we do not propose to interfere with the same.

The Special Leave Petitions stand disposed of with the above clarification.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER

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This print replica of the raw text of the judgment is as appearing on court website (authoritative source)

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Publisher has only added the Page para for convenience in referencing.

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