

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CNR No: PHHC010123112022

2026:PHHC:130156



1. CRM-M-5955-2022 (O&M)

Renu Deswal

...Petitioner

Versus

State of Haryana and others

...Respondents

2. CRM-M-65066-2023 (O&M)

Dr. Vinit Gupta

...Petitioner

Versus

State of Haryana and others

...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	02.09.2026
2	The date when the judgment is pronounced	15.09.2026
3	The date when the judgment is uploaded on the website	15.09.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ravinder Rana, Advocate
 for the petitioner in CRM-M-5955-2022.

 Mr. Amitabh Tewari, Advocate
 for the petitioner in CRM-M-65066-2023.

 Mr. Apoorv Garg, Additional Advocate General, Haryana.

MANISHA BATRA, J.

1. As both these petitions arise out of the same Criminal Complaint bearing No. 295 of 2015, emanate from the same inspection conducted on

20.01.2014 at M/s Shri Balaji Imaging & Pathology Centre Pvt. Ltd., Bahadurgarh, and involve common questions of law and fact, the same are being taken up and decided together by this common order.

2. Through the instant petitions, filed under Section 482 of Cr.P.C., the petitioners seek quashing of Criminal Complaint No. 295 of 2015 titled ***District Appropriate Authority, PC & PNDT, Jhajjar v. Renu Deswal and others***, dated 07.05.2015, filed under Section 28 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (*for short, 'the Act'*), pending before the Court of learned Judicial Magistrate First Class, Bahadurgarh, along with the consequential proceedings and summoning order dated 19.03.2021, whereby the petitioners have been summoned to face trial for commission of offences punishable under Sections 4, 5 and 6 read with Section 23 and Section 29 read with Rules 9 and 10 of the PC&PNDT Rules, 1996.

3. The facts, as set out in the impugned complaint, are that M/s Shri Balaji Imaging & Pathology Centre Pvt. Ltd., Bahadurgarh, was registered under the PC&PNDT Act for conducting ultrasound examinations. On 20.01.2014, at about 11:30 a.m., on receipt of secret information, the District Appropriate Authority constituted a team comprising Dr. Kumud Sharma, Nodal Officer under the PC&PNDT Act-cum-Deputy Civil Surgeon, Jhajjar, Dr. Madhulika, Dr. Nisha, Dr. Amit Kant, Shri Rakesh Dahiya and Kumari Ganga Devi for inspection of the Centre. As per the allegations, Dr. Kumud Sharma had been authorised to exercise the powers and act as Nodal Officer for inspecting ultrasound centres and taking appropriate action in case of contravention of the mandatory provisions of the Act. During raid, petitioner

Renu Deswal, Director of the Centre, was found present at the centre, whereas Dr. Mahesh Chander Mishra was not present. During the inspection, the team obtained a printout from the ultrasound machine showing 479 ultrasounds conducted by the Centre. The complaint alleges that Renu Deswal did not produce the record of the last two years, which was stated to be mandatory under Rule 9(6) of the Rules. The record register was then inspected and deficiencies were noticed, including absence of signatures of the radiologist against certain entries, absence of the names of spouse/husband against various entries, lack of page numbering and non-mentioning of the date of the first report of the patient referred to the ultrasound centre.

4. It is further alleged in the complaint that 40 Form-Fs and referral slips were found to have various deficiencies. Some Form-Fs/referral slips were not signed by the doctor, the full name and address of the doctor were not mentioned and in certain cases, the ultrasound report was signed by Dr. Mahesh Chander Mishra though the ultrasound was stated to have been conducted by Dr. Vinit Gupta-petitioner. One of the allegations was that an ultrasound had been advised on 26.06.2013 but was conducted on 23.09.2013. The complaint also states that the ultrasound report was required to be attached with every Form-F. It is further stated in the complaint that persons from the locality had gathered at the spot and were requested to join the inspection as witnesses but none agreed to do so. FIR No. 30 dated 20.01.2014 was thereafter registered and the ultrasound machine along with the original record was seized and handed over to the police. The site plan and recovery memo were prepared. The complaint alleges further deficiencies in the Form-Fs and referral slips, including incomplete entries, incorrect addresses of patients, failure to fill the

column relating to indications and non-maintenance of the declaration of Renu Deswal under the Rules. The complaint further alleges that the matter was considered in the meetings of the District Appropriate Authority/District Advisory Committee. The registration of the Centre was suspended on 29.01.2014 and show cause notices were subsequently issued. The complaint alleges that the proceedings before the Authority followed the inspection and the alleged violations detected therein. On the basis of the aforesaid allegations, the impugned complaint was filed under Section 28 of the Act against the accused persons, including the present petitioners, alleging commission of offences under the provisions of the Act and the Rules.

5. It is also relevant to notice that the original summoning order dated 07.05.2015 was challenged before the learned revisional Court. The revisional Court, vide order dated 08.09.2017, set aside the said order, primarily noticing that the summoning order did not disclose adequate reasons and remitted the matter to the learned Magistrate for fresh consideration in accordance with law. Pursuant thereto, the learned Magistrate reconsidered the matter and passed a fresh summoning order dated 19.03.2021. The challenge, therefore, has to be examined with reference to the fresh order dated 19.03.2021 and the material available before the learned Magistrate at the relevant stage. Aggrieved from filing of the complaint and their summoning thereof, the petitioners have filed these petitions.

6. It is argued by learned counsel for the petitioners that the impugned complaint and the consequential proceedings are liable to be quashed as the very initiation of the complaint is contrary to the scheme of the Act. It has been argued that the impugned complaint has been filed by the Deputy

Civil Surgeon-cum-Nodal Officer, purportedly on behalf of the Chairman, District Appropriate Authority, whereas the District Appropriate Authority is a three-member statutory body. There is no material on record to show that the three-member District Appropriate Authority, as such, had taken a decision to institute the complaint or had validly authorised the complainant to do so. Reliance has been placed upon the judgment of this Court in ***Dr. Anil Bansal v. District Appropriate Authority, Gurugram, CRM-M-18417-2018, decided on 24.02.2020*** to submit that the statutory functions of the Appropriate Authority cannot be exercised by an individual officer in the absence of lawful authorisation. A reference is also made to Section 28(1)(a) of the Act to contend that only the Appropriate Authority concerned or any officer authorized in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority was competent to file the complaint. However, the present complaint was solely filed by Dr. Raj Karan, Nodal Officer.

7. Learned counsel for the petitioners have further argued that the inspection/search conducted at the premises of the said centre on 20.01.2014 was itself without the authority contemplated under Section 30 of the Act. It has been submitted that the power of search and seizure is vested in the Appropriate Authority and, in the facts of the present case, the requisite decision or satisfaction of the three-member District Appropriate Authority authorising such search is not shown to have been recorded. An individual officer could not have assumed the power of the District Appropriate Authority and proceeded to conduct the inspection/search merely on the basis of secret information, which was not in consonance with the mandate of Section 30 of the Act. It has further

been argued that the entire prosecution case substantially rests upon the material allegedly collected during the inspection conducted on 20.01.2014, including the ultrasound records, Form-Fs, registers and other documents allegedly seized from the premises. Learned counsel has submitted that when the foundational search itself was without the requisite statutory authorisation, the material collected pursuant thereto cannot be made the basis for continuing the criminal proceedings against the petitioners. Reliance in this regard has been placed upon ***Ravinder Kumar v. State of Haryana, 2024 INSC 684***.

8. Learned counsel for the petitioners have further argued that the procedure contemplated for a search was not duly followed. It is submitted that although the inspection team allegedly requested local persons to join the proceedings, no independent person was associated with the search, seizure or recovery proceedings. The entire exercise was carried out by the officials of the department and, therefore, the alleged recoveries and discrepancies recorded by the inspection team require to be viewed with caution. Reliance has been placed upon ***State of Punjab v. Davinder Pal Singh Bhullar and others, (2012) (1) RCR (Criminal) 126*** to contend that if a legal action is not in consonance with law, then all subsequent proceedings would fall through for the reason that illegality strikes at the root.

9. It has further been argued that the allegations regarding the Form-Fs and other records do not establish the commission of the offences alleged against the petitioners. Learned counsel have submitted that the complaint contains several alleged discrepancies in the records but there is no specific material showing conscious violation of the provisions of Sections 4, 5 or 6 of the Act by the petitioners. It is argued that the criminal process cannot be

permitted to continue merely on the basis of technical or procedural deficiencies in the records.

10. Learned counsel for petitioner Dr. Vinit Gupta has, in addition, argued that he had already resigned from the concerned centre on 31.10.2013, whereas the inspection in question was conducted on 20.01.2014. It is submitted that, after his resignation, he had no connection with the day-to-day functioning of the centre and could not, therefore, be held responsible for the alleged violations noticed during the inspection. Learned counsel has particularly submitted that Dr. Vinit Gupta was not even present at the time of the inspection and the complaint does not attribute to him any role in the inspection proceedings. His implication is, therefore, wholly unjustified.

11. It has been further argued on behalf of Dr. Vinit Gupta that the mere reference in the complaint to certain ultrasound examinations allegedly conducted by him does not establish that he was responsible for the alleged deficiencies noticed in the records on 20.01.2014, particularly when he had already left the centre much before the date of inspection. The subsequent records and alleged irregularities could not be attributed to him in the absence of specific material connecting him with the functioning of the centre after 31.10.2013. With these broad submissions, it is jointly urged by learned counsel for the petitioners that the petitions deserve to be allowed and the impugned complaint along with all the subsequent proceedings is liable to be quashed.

12. Replies have been filed by the respondents-State. On the strength of the same, Mr. Apoorv Garg, Additional Advocate General, Haryana has argued that the petitions are devoid of any merit. It has been submitted that the

present criminal complaint was not the unilateral act of the Nodal Officer. The issue of prosecution was deliberated upon by the District Advisory Committee as well as the three-member District Appropriate Authority, Jhajjar, and thereafter the District Appropriate Authority authorised Dr. Raj Karan, Deputy Civil Surgeon-cum-Nodal Officer, to institute the complaint. Thus, the complaint was merely presented through an officer authorised by the competent Authority. Learned State counsel has further argued that Section 28(1)(a) of the Act expressly permits a complaint to be filed not only by the Appropriate Authority but also by an officer authorised by the Central Government, State Government or the Appropriate Authority. Reliance has been placed upon ***State of M.P. v. Manvinder Singh Gill, SLP(Crl.) Nos. 2226 and 2229 of 2014, decided on 03.08.2015***, wherein the Hon'ble Supreme Court explained the three categories of persons competent to institute a complaint under Section 28(1)(a), including an officer authorised by the Appropriate Authority. It has also been argued that the issue of institution of a complaint through an authorised officer has already been considered by this Court in ***Dr. Preetinder Kaur and others v. State of Punjab and others, 2011 CriLJ 876***. The said judgment recognises that an irregularity in the manner of institution of a complaint can be subsequently ratified by the Appropriate Authority and such an irregularity, in the absence of inherent lack of jurisdiction, would not justify quashing of the proceedings. The present case stands on an even stronger footing as there was deliberation by the members of the District Appropriate Authority followed by express authorisation to file the complaint.

13. Learned State counsel has referred to the judgment of the Supreme Court in ***Dr. Naresh Kumar Garg v. State of Haryana and others, 2026 (2)***

SCC (Cri) 177, decided on 23.02.2026 to argue that in the said case also the legality of a search conducted pursuant to the decision of an individual member of the District Appropriate Authority and the subsequent filing of a complaint were examined. The Hon'ble Supreme Court clarified that an infirmity in the manner in which a search was authorised does not automatically vitiate the subsequent complaint or render the material collected during such search inadmissible. The legality of the search and the evidentiary value of the material collected are distinct questions. The said judgment also held that an independent complaint by the Appropriate Authority is not rendered unsustainable merely because the police proceedings arising out of the same incident have culminated in discharge or cancellation. Learned State counsel has further argued that the petitioners cannot derive any benefit from the judgment in *Ravinder Kumar's case (supra)* at this stage. It has been submitted that even if the question regarding the manner of authorisation of the inspection/search is examined in the light of the said judgment, the same would not automatically result in quashing of the present complaint, particularly when the prosecution is also based upon the alleged deficiencies in the statutory records, Form-Fs, registers and referral slips. In *Dr. Naresh Kumar Garg's case (supra)*, the Hon'ble Supreme Court has subsequently explained the distinction between the legality of the search and the admissibility or consideration of the material collected during such search.

14. Learned State counsel has also opposed the argument regarding non-joining of independent witnesses. It has been submitted that persons from the locality had gathered near the premises and the inspection team had requested them to join the proceedings, but they expressed their inability or

reluctance to do so. Thus, this is not a case where the officials made no effort to associate independent witnesses. Mere non-availability or non-joining of independent witnesses does not demolish the prosecution case. Reliance in this regard is placed upon *Appabhai and another v. State of Gujarat*, AIR 1988 SC 696 and *Federation of Obstetrics and Gynaecological Societies of India (FOGSI) v. Union of India*, (2019) 6 SCC 283.

15. So far as petitioner Dr. Vinit Gupta is concerned, learned State counsel has specifically opposed the submission that his resignation from the centre on 31.10.2013 absolves him of the allegations in the complaint. The ultrasound reports dated 21.11.2013 and other reports bear the signatures of Dr. M.C. Mishra but it was found that Dr. Vinit Gupta was the doctor who conducted the ultrasounds. Thus, the material relied upon against Dr. Vinit Gupta pertains to a period subsequent to the date of his alleged resignation. Learned State counsel has, therefore, argued that the plea of resignation dated 31.10.2013 cannot be accepted as a conclusive defence at the stage of exercising jurisdiction under Section 482 Cr.P.C. The question whether Dr. Vinit Gupta had actually ceased to have any connection with the centre after the alleged resignation and whether the ultrasound reports relied upon by the respondents were in fact prepared pursuant to procedures conducted by him, are matters which require examination of the relevant records and evidence. Learned State counsel has lastly argued that the power under Section 482 Cr.P.C. is required to be exercised sparingly and that, at the stage of summoning, the Court is only required to examine whether a prima facie case is made out and not to undertake a detailed examination of the probative value of the evidence. Reliance has been placed upon *State of Haryana v. Bhajan Lal*,

1992 Supp (1) SCC 335 and *Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC (Cri) 158*. It has been submitted that the defence sought to be raised by the petitioners, including the alleged illegality/irregularity in the inspection, non-joining of independent witnesses, earlier inspection being satisfactory and, in the case of Dr. Vinit Gupta, his resignation, are matters which cannot be conclusively adjudicated upon at this preliminary stage. With these broad submissions, it is urged that the petitions are liable to be dismissed.

16. This Court has heard the arguments advanced by learned counsel for the parties at considerable length, besides going through the material placed on record.

17. Since the principal challenge is to the very competence of the complaint and to the legality of the inspection conducted on 20.01.2014, it would be appropriate to first notice the relevant statutory scheme. The PC&PNDT Act is a social welfare legislation enacted to prohibit sex selection and to regulate pre-natal diagnostic techniques so as to prevent their misuse for determination of the sex of the foetus leading to female foeticide. The Honble Supreme Court has recently reiterated this object in *Dr. Naresh Kumar Garg's case (supra)* by observing that the legislation seeks to protect the girl child and that its provisions cannot be diluted in a manner which defeats its object.

18. Section 2(a) of the Act defines "Appropriate Authority" to mean the authority appointed under Section 17. Section 17 is, therefore, of central importance. Sub-sections (2) and (3) of Section 17 contemplate constitution of the Appropriate Authority by the State Government and, for the concerned part of the State, the Authority is a multi-member statutory body. In the present case, the notification dated 07.11.2013 constituted the District Appropriate

Authority for the district with the Civil Surgeon as Chairperson, District Programme Officer, Women and Child Development Department, as Member and District Attorney as Member. This is also the composition which came up for consideration before the Supreme Court in *Ravinder Kumar's case (supra)*. Section 17(4) prescribes the functions of the Appropriate Authority. Clauses (c), (e) and (g) of this section are significant which empower the Authority to investigate complaints of breach of the Act or the Rules and take immediate action; to take appropriate legal action against the use of any sex selection technique and initiate independent investigation; and to supervise implementation of the Act and the Rules. Section 17(5), on the other hand, provides for constitution of an Advisory Committee to aid and advise the Appropriate Authority. The two bodies, therefore, have distinct statutory functions. The Advisory Committee advises; the statutory power to investigate and take legal action remains with the Appropriate Authority.

19. Section 17A of the Act further confers upon the Appropriate Authority powers including summoning persons possessing information relating to violation of the Act, requiring production of documents and material objects and issuing search warrants for places suspected to be indulging in sex selection techniques or pre-natal sex determination. Thus, the statutory scheme does not leave enforcement of the Act to ordinary police machinery. It creates a specialised statutory mechanism through the Appropriate Authority. Section 23 is the penal provision. In substance, it makes a medical geneticist, gynaecologist, registered medical practitioner or a person owning or employed in a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, who renders professional or technical services and contravenes the Act or the Rules,

liable to punishment. The provision is deliberately wide enough to cover not merely the owner of a centre but also persons who render professional or technical services there. Section 28 of the Act assumes significance because it regulates cognizance of offences under the Act. Section 28(1)(a) reads as under:

“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;”

20. Thus, the aforementioned provision itself recognises an authorised officer as a competent complainant. The question, therefore, is not whether a complaint must physically bear the signatures of all the members of the three-member District Appropriate Authority but whether the person who instituted the complaint was authorised in accordance with law.

21. The Hon’ble Supreme Court, while considering the scope of Section 28(1)(a), has recognised that the provision permits institution of a complaint by an officer authorised by the Appropriate Authority. The State has relied upon *Manvinder Singh Gill’s case (supra)* in this regard. The statutory language itself supports this submission. The provision does not insist that the complaint must be signed jointly by every member of the Appropriate Authority. What is material is the source and validity of the authority behind the complaint. In the present case, the respondents have specifically pleaded that the question of initiating prosecution was deliberated upon by the District Appropriate Authority and, thereafter, Dr. Raj Karan, Deputy Civil Surgeon-cum-Nodal Officer, was directed and authorised to institute the complaint on behalf of the Authority. The complaint itself describes the complainant as the

Deputy Civil Surgeon-cum-Nodal Officer acting on behalf of the Chairman, District Appropriate Authority. Thus, the allegation that the complaint was the completely unilateral act of an officer having no authority whatsoever is not borne out, at least at this stage, from the material placed before this Court.

22. More importantly, the State has submitted on affidavit that the District Appropriate Authority had authorised Dr. Raj Karan to file the complaint. This assertion has been made specifically and unequivocally in the reply filed before this Court. The petitioners, despite having raised the objection that the complaint was not instituted by the Appropriate Authority, have not placed on record any material to show that Dr. Raj Karan was not so authorised. At this stage, therefore, the Court cannot proceed on a mere presumption that the complainant lacked authority, particularly when the statutory scheme itself permits an officer authorised by the Appropriate Authority to institute a complaint under Section 28(1)(a) of the Act. Whether the authority was in fact conferred upon him is a matter to be examined with reference to the material placed by the parties but the positive assertion of the State on affidavit, coupled with absence of anything contrary from the petitioners, does not permit the complaint to be held incompetent at the threshold.

23. The reliance of the petitioners upon *Dr. Anil Bansal's case (supra)* cannot result in quashing of the present proceedings at the threshold. This judgment has to be applied to its own factual setting. More importantly, the respondents in the present case have specifically asserted prior deliberation and authorisation by the District Appropriate Authority. Whether the minutes/resolution and the authorisation relied upon by the respondents conclusively establish such authority is a matter capable of examination by the

trial Court on the evidence. At the stage of Section 482 Cr.P.C., this Court would not be justified in treating a disputed factual question as conclusively established in favour of the petitioners. This conclusion also finds support from ***Dr. Preetinder Kaur's case (supra)***. In that case, this Court examined an objection regarding institution of proceedings through an officer and held, in the factual setting of that case, that an irregularity in the mode of institution, followed by deliberation and ratification by the Appropriate Authority, did not warrant termination of the prosecution. The principle is not that every defect in authorisation is automatically curable. The principle is that where the statutory authority itself has taken cognizance of the matter and authorised or ratified the action, the Court must distinguish an irregular mode of presentation from a complete absence of jurisdiction.

24. The second principal objection relates to the inspection/search conducted on 20.01.2014. In this regard, Section 30(1) of the Act is relevant, which reads as under:

“If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or any other place, such Authority or any officer authorised thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times... and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize and seal the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.”

25. Section 30(2) further makes the provisions relating to search and seizure under the Code of Criminal Procedure applicable, as far as may be, to

searches and seizures under the Act. There can be no dispute about the legal proposition that the power under Section 30 is not an unregulated power. The Supreme Court in ***Ravinder Kumar's case (supra)*** has authoritatively held that where the Appropriate Authority is a multi-member body, the decision to take action under Section 30 must be that of the Appropriate Authority collectively and not of one of its members acting alone. It was specifically held that a Chairman or any other individual member cannot, merely in that capacity, authorise a search. The principle laid down in ***Ravinder Kumar's case (supra)*** is binding and has to be given full effect. At the same time, the ratio of that judgment cannot be separated from the factual foundation upon which the relief was granted. The Hon'ble Supreme Court itself has explained this aspect in the subsequent judgment in ***Dr. Naresh Kumar Garg's case (supra)***. There too, the search had been ordered by the Chairperson individually, without material showing a collective decision of the District Appropriate Authority. The Hon'ble Supreme Court held that such a search was illegal. However, it separately examined whether that illegality necessarily resulted in destruction of all material collected during the search and quashing of the complaint. The Hon'ble Supreme Court expressly distinguished between the legality of the search and the relevancy and admissibility of the material collected during the search. It was held that even where the search is illegal, the material or evidence collected in the course of such search cannot automatically be treated as non-existent. The distinction is important in the present case. The petitioners seek to proceed from the proposition that if any defect is found in the authorisation of the inspection, the complaint must necessarily fall. That is too broad proposition. ***Ravinder Kumar's case (supra)*** certainly establishes the

illegality of an individual decision under Section 30 where the statutory Appropriate Authority is multi-member. But ***Dr. Naresh Kumar Garg's case (supra)*** makes it equally clear that the consequence of such illegality has to be examined in the factual context of the prosecution and the nature of the material relied upon. Here, the complaint does not merely allege that a machine or some isolated article was recovered during the inspection. It records specific deficiencies in the statutory records maintained by the centre, including the register, Form-Fs and referral slips, and allegations concerning signatures, particulars of patients, referral details and the identity of the doctor conducting the ultrasound examinations. The complaint thus raises questions concerning the statutory maintenance of records which cannot be reduced to the legality of the physical entry into the premises.

26. Further, the complaint itself states that the inspection team was constituted by the District Appropriate Authority. The respondents have also specifically pleaded that the matter was subsequently considered by the statutory Authority and that a decision was taken to institute the complaint. Therefore, unlike a case where the entire prosecution is demonstrably founded upon a search authorised solely by an individual officer and there is no other material whatsoever, the present case cannot, at this stage, be placed in that category.

27. The petitioners have also relied upon non-joining of independent witnesses. Rule 12 of the PC&PNDT Rules contemplates the presence of independent witnesses during search and seizure. The respondents, however, have specifically stated that persons from the locality had gathered near the premises and were requested to join the proceedings, but they expressed their

inability or reluctance to do so. This explanation cannot be rejected in proceedings under Section 482 Cr.P.C. merely because the petitioners dispute it. The Hon'ble Supreme Court in *Appabhai's case (supra)* has recognised that non-availability or non-production of independent witnesses does not, by itself, provide a reason to discard the prosecution version. The practical reluctance of members of the public to associate themselves with criminal proceedings was also recognized. The weight to be attached to the absence of independent witnesses is ultimately a matter of appreciation of evidence. Consequently, even assuming that the absence of independent witnesses is a circumstance which the petitioners may rely upon at trial, it does not, by itself, demolish the complaint. The question whether the statutory procedure was substantially complied with, whether the officials correctly recorded the proceedings and whether the material allegedly recovered was actually recovered in the manner stated are matters for evidence.

28. The more substantive aspect of the matter relates to the alleged deficiencies in the statutory records. Section 29(1) requires all records, charts, forms, reports, consent letters and other documents required to be maintained under the Act and Rules to be preserved for the prescribed period. Section 29(2) requires such records to be made available for inspection to the Appropriate Authority or an authorised person. Section 4(3), read with its proviso, is also significant. The statutory scheme requires a person conducting ultrasonography on a pregnant woman to maintain a complete record in the prescribed manner and provides that any deficiency or inaccuracy in such record amounts to a contravention of Sections 5 or 6 unless the contrary is proved by the person conducting the ultrasonography. This provision explains why the prescribed

forms under the Rules are not treated as mere administrative paperwork. Rule 9 requires maintenance and preservation of records. In particular, Rule 9(1) requires the prescribed register to contain the names and addresses of persons subjected to prenatal diagnostic procedures/tests, names of their spouses or fathers and the date of their first reporting. Rule 9(4) requires the record relating to each person subjected to such procedure/test to be maintained in Form-F. Rule 9(6) requires preservation of the relevant records for the prescribed period. Rule 10 also prescribes conditions for conducting prenatal diagnostic procedures and requires the declarations contemplated by the Rules.

29. The importance of aforementioned provisions has been authoritatively explained by the Hon'ble Supreme Court in ***Federation of Obstetrics and Gynaecological Societies of India's case (supra)***. The Hon'ble Supreme Court held that the complete contents of Form-F are mandatory and that non-maintenance of records cannot simply be brushed aside as a clerical error. It recognised that the prescribed records constitute an important safeguard against misuse of diagnostic techniques. The significance of aforesaid judgment becomes even greater in the present case because the complaint does not allege one isolated omission. It refers to several Form-F/referral slips allegedly incomplete or unsigned, deficiencies in the register, absence of particulars and discrepancies concerning the doctor who conducted the ultrasound and the doctor whose signatures appeared on the reports. The respondents have also placed specific examples of such records on the file.

30. At this stage, this Court is not required to determine whether every alleged deficiency is ultimately proved. Nor is this Court required to decide whether a particular omission was deliberate, inadvertent or clerical. Those are

questions which necessarily depend upon evidence. What is material for the present purpose is that the complaint contains specific allegations which, if proved, may attract the statutory provisions invoked against the petitioners. The argument that the earlier inspection dated 11.12.2013 allegedly found the centre to be functioning properly also cannot lead to quashing of the present complaint. A previous inspection cannot confer immunity against subsequent violations. Compliance on one date does not logically exclude violation on a later date. Whether the circumstances noticed on 20.01.2014 were genuine or whether they were correctly recorded is a matter for trial.

31. Now let us come to the individual plea of petitioner Dr. Vinit Gupta. His principal submission is that he had resigned from the centre on 31.10.2013, whereas the inspection was conducted on 20.01.2014, and therefore he could not be responsible for the alleged violations. This submission, though appears attractive at first sight, cannot be accepted at this stage. The respondents have specifically placed reliance upon ultrasound reports dated 21.11.2013 and other reports which, according to them, record Dr. Vinit Gupta as the doctor who conducted the ultrasound, although the reports bear the signatures of Dr. M.C. Mishra. The respondents have specifically pleaded that these documents relate to a period subsequent to 31.10.2013. Therefore, the resignation dated 31.10.2013 does not, by itself, answer the allegation. The question is not merely when the petitioner claims to have resigned. The relevant question is whether, notwithstanding the alleged resignation, he had in fact conducted or rendered professional services in relation to the ultrasound examinations relied upon by the prosecution. That is a question of fact. There is another reason why this plea cannot be accepted at the present stage. Section 23

expressly extends its operation to a registered medical practitioner or a person employed in or rendering professional or technical services at a Genetic Clinic. Thus, liability under the Act is not confined to the owner of the centre. If the prosecution material ultimately establishes that Dr. Vinit Gupta himself conducted particular ultrasound examinations and that the statutory requirements were not complied with, his alleged resignation from the establishment on a particular date would not, by itself, furnish an answer to those specific acts. At the same time, this Court is conscious that a mere reference to the petitioner's name in a document cannot substitute proof at trial. Thus, this Court is not holding, at this stage, that Dr. Vinit Gupta in fact conducted the ultrasound examinations after 31.10.2013. The limited finding is that the material relied upon by the respondents raises a factual issue which cannot be conclusively decided in favour of the petitioner in exercise of jurisdiction under Section 482 Cr.P.C.

32. The petitioners have also relied upon ***Davinder Pal Singh Bhullar's case (supra)***. The said judgment does not advance their case to the extent urged. The power under Section 482 Cr.P.C. undoubtedly exists to prevent abuse of the process of law. But it is not a jurisdiction for weighing competing versions of facts or conducting a mini-trial. The question in the present case is whether, taking the allegations and material relied upon by the complainant at their face value, the prosecution is wholly groundless. In my considered view, it is not. The PC&PNDT Act is a social welfare legislation enacted with the specific object of preventing sex selection and misuse of pre-natal diagnostic techniques and, ultimately, of preventing female foeticide. The provisions relating to maintenance of records, completion of Form-F,

inspection, search and seizure and institution of prosecution constitute an integrated statutory mechanism intended to ensure accountability in the use of such techniques. At the same time, the seriousness of the object of the legislation cannot dispense with the requirement of a *prima facie* case. The Court is required to examine whether the allegations, taken at their face value, disclose an offence and whether continuation of the proceedings would amount to an abuse of the process of law.

33. In the present case, there is nothing on record at this stage to demonstrate that the allegations made in the complaint are so absurd or inherently improbable that no prudent person could ever reach a conclusion that an offence under the Act may have been committed. The complaint contains specific allegations regarding statutory records, Form-Fs, referral slips and ultrasound reports. The allegations, therefore, cannot be characterised as vague, fanciful or inherently improbable. Whether those allegations are ultimately proved is an entirely different matter and must be left to the trial Court.

34. It is well settled that while exercising jurisdiction under Section 482 Cr.P.C., this Court should not ordinarily undertake an assessment of the reliability or probative value of the prosecution material or weigh the defence as though conducting a trial. The respondents have rightly relied upon these principles. The present case does not fall within a category where the allegations, even if accepted in their entirety, fail to disclose any offence. Nor is this a case where the defence documents of unimpeachable character completely demolish the prosecution version. On the contrary, the complaint contains specific allegations regarding maintenance of statutory records and Form-Fs and the respondents have placed material in support thereof. It is also

necessary to keep in view that the PC&PNDT Act creates a carefully structured statutory mechanism. The Appropriate Authority is entrusted with enforcement; the Advisory Committee assists and advises it; Section 28 regulates cognizance; Section 29 ensures preservation of records; Section 30 regulates search and seizure; and Section 23 provides the penal consequence. These provisions are intended to operate together. The Court should neither dilute the statutory safeguards available to the regulated establishments nor interpret procedural provisions in a manner which disables the statutory Authority from enforcing the legislation.

35. In view of the discussion made above, this Court is of the considered opinion that no case has been made out for quashing the impugned complaint or subsequent proceedings having arisen therefrom. Consequently, both petitions are found to be without merit and are dismissed. The trial Court shall proceed with the complaint in accordance with law and without being influenced by any observation made herein.

36. Pending application(s), if any, shall stand disposed of.

37. Let a photocopy of this order be placed on the file of the connected case.

15.09.2026

Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No