

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

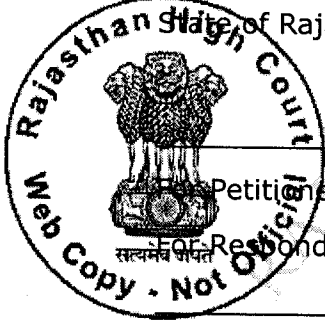
S.B. Criminal Misc(Pet.) No. 3050 / 2017

Dr. J.B. Sompura, Gayatri Maternity and Nursing Home, Upasana
Complex, Opp. ST Stand, Modasa, Gujrat

----Petitioner

Versus

----Respondent



Petitioner(s) : Mr. Shambhoo Singh

For Respondent(s) : Mr. Vikram Rajpurohit, PP

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Judgment / Order

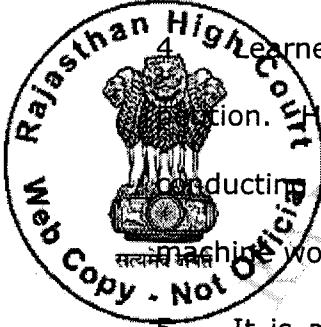
13/10/2017

1. Petitioner has preferred this criminal misc. petition aggrieved by order dated 14.06.2017 passed by Chief Judicial Magistrate, Banswara, whereby the application filed by the petitioner under Sections 451 & 457 of Cr.P.C. for releasing sonography machine on supurdaginama was rejected and against order dated 31.08.2017 passed by Sessions Judge, Banswara, where by the revision filed by the petitioner was dismissed.

2. It is contended by counsel for the petitioner that the sonography machine is not required during trial. Petitioner is having a registered clinic and has a right to keep a sonography machine. Non release of the sonography machine is causing irreparable loss to him. It is also contended that even the trial Court in certain cases have released the sonography machine

which order has not been challenged by the State.

3. Counsel for the petitioner has placed reliance on S.B. Criminal Misc. Petition No.3148/2017 "**Rajkiran vs. State of Rajasthan**" decided by Rajasthan High Court on 19.09.2017 and judgment of Apex Court in "**Sunderbhai Ambalal Desai vs. State of Gujarat**" AIR 2003 Supreme Court 638.



4. Learned Public Prosecutor has vehemently opposed the misc. application. His contention is that the petitioner was caught conducting sex determination after obtaining Rs.20,000/-. The machine would be required during trial.

5. It is also contended that Division Bench of Rajasthan High Court in "**S.K. Gupta vs/ Union of India & Ors.**" D.B. Civil Writ Petition (PIL) No.3270/2012 vide order dated 15.04.2015 has restrained the Court from releasing the machine if they are involved in sex determination.

6. With regard to the sonography machine which has been released, it is contended that the State did not object to such release as the machines therein, were not involved in sex-determination.

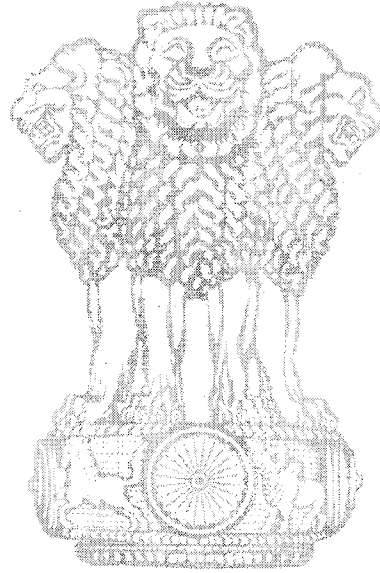
7. I have considered the contentions.

8. Petitioner's sonography machine was seized by the Department as the petitioner was found conducting sex determination. Amount of Rs.20,000/- was also seized at that relevant time. The Court below considering the same has rejected the application filed under Section 451 & 457 Cr.P.C. Petitioner has already availed of the remedy of first revision, the second revision

being barred. This is not an exceptional case so as to invoke the inherent powers of the Court under Section 482 Cr.P.C.

9. Consequently, the criminal misc. petition is dismissed.

(PANKAJ BHANDARI)J.



सत्यमेव जयते