

**THE 6TH ANNUAL
ADV. B. P. APTE MEMORIAL
NATIONAL MOCK TRIAL,
MOOT COURT & JUDGEMENT
WRITING COMPETITION,
2018**

28 – 30th September, 2018

PAPER BOOK

IN THE COURT OF HON'BLE JUDICIAL MAGISTRATE FIRST CLASS,
HAMBOLA
PRIVATE CRIMINAL COMPLAINT NO.177 OF 2018

Appropriate Authority of Hambola

Dr. A S Gadgil

... Prosecution

v/s

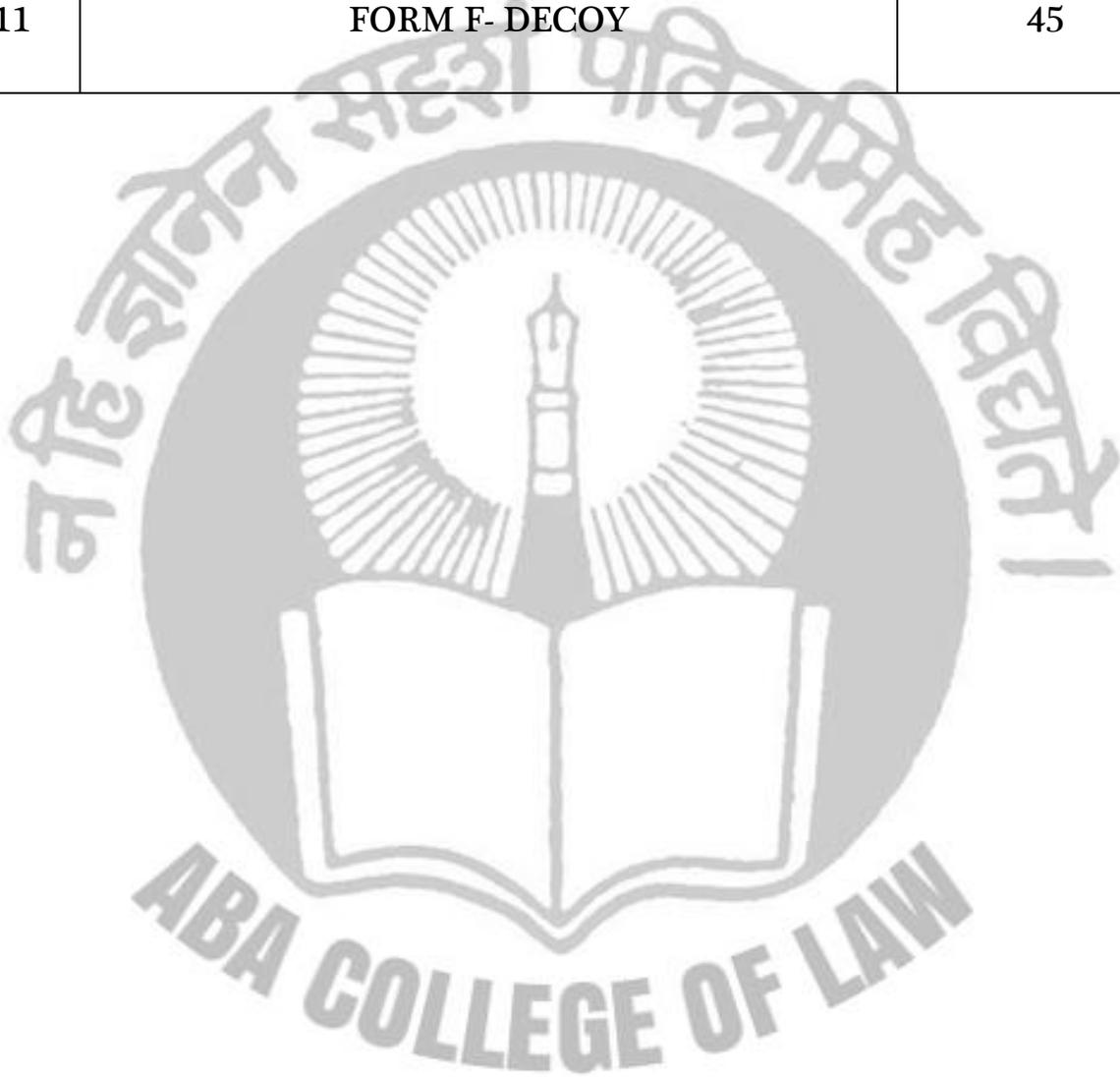
Dr. M R Patel & Anr

... Defendants

INDEX

<u>SR.NO</u>	<u>TITLE</u>	<u>PAGE NO.</u>
1	STATEMENT OF FACTS	3
2	STATEMENT OF COMPLAINANT	8
3	STATEMENT OF DECOY	12
4	PANCHNAMA	17
5	STATEMENT OF HUSBAND OF DECOY	21
6	ANNEXURE TRANSCRIPTS	26
7	CERTIFICATE U/S 65-B	34

8	FORM G- COMPLAINANT	36
9	FORM G- DECOY	38
10	FORM F- COMPLAINANT	40
11	FORM F- DECOY	45



Statement of Facts

The State of Madhya Rashtra is one among the 29 States of the Union of Aryavart. In the Union of Aryavart and more particularly in the State of Madhya Rashtra, the ideology of son preference is brooding. Due to the advancement of technology such as ultrasound, in vitro fertilization, easy availability of sonography machines, it became possible to determine the sex of the foetus while it is in the womb of the mother. Thus, people started taking undue advantage of the technological advancement and the sex ratio was adversely affected. Day by day, the numbers of female births started declining and this became a huge cause of concern for the Government, which, in the year 1994, enacted the Pre-Conception and Pre-Natal Diagnostic Techniques Act with a view to provide for punishments for practices such as sex determination, sex selection, etc.

Dr. M. R. Patel practiced medicine at Vijayapura village in Khedanagar taluka of Hambola District in the State of Madhya Rashtra. He was a M.D Radiologist who was proprietor of the Patel Nursing Home which used all the modern medical technologies which are ordinarily available at a Taluka place in the State of Madhya Rashtra. The said Dr. Patel also had a registered sonography machine in his clinic. It was rumored that Dr. Patel used the said machine for the purpose of sex determination and also that he regularly conducted abortions in violation of the provisions of the Medical Termination of Pregnancy Act, 1971.

On 12th July, 2017, Mrs. Kavita Mohite, along with her husband Mr. Sachin Mohite, visited the clinic of Dr. Patel. Mrs. Kavita was in the 4th month of her pregnancy. As was revealed by Mrs. Kavita later, her husband took her to the clinic under the pretext of regular checkup but on reaching there, she was told that they were to carry out certain sonography tests in order to determine the sex of the foetus. She resisted but was eventually forced to carry out the tests upon which Dr. Patel started worshipping a photo frame of a goddess which was in the room. He repeatedly started saying *Jai Mata Di*. Dr. Patel informed her husband that they may start distributing *barfis*. Communicating the sorrow, Dr. Patel suggested Mr. Sachin Mohite that there was a solution of undergoing abortion and for the said purpose, he gave Mrs. Kavita an appointment on the very next day. While exiting from the nursing home, Kavita noted the telephone number and address of the District Appropriate Authority established under the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994. The said details were pasted on a wall in the nursing home. On reaching her residence, she contacted the District Appropriate Authority which immediately took action and on the very next day, i.e. on 13th July, 2017, conducted a sting operation at the Patel Nursing Home.

The Appropriate Authority with help of Mrs. Veena Deodhar, a primary school teacher in the adjacent village who also was four months pregnant in the month of July 2017, acted as a decoy and a sting operation was conducted wherein the conversation of Mr. and Mrs. Deodhar and Dr.

Patel was recorded with the help of an audio recorder. The said audio recording reflected that there was an offer to conduct an illegal sex determination upon being offered Rs. 50,000/- which were given in cash, and further Rs. 75,000/- if he would conduct an abortion lest the foetus be revealed to be a girl. The entire sting operation was recorded, in which the conversation between Dr. Patel, Mr. and Mrs. Deodhar is also clearly heard.

The Appropriate Authority then along with their team, reached the spot and a Panchnama, made in presence of two independent witnesses. The sonography machine was seized and sealed among other items which inter alia included a register of all the pregnant women who had been recorded as patients. The registration of the Sonography machine was also cancelled. There were the records of the test of Mrs. Mohite, the test having been conducted the earlier day. A star mark was made in red colour against the entry of Mrs. Mohite's name. The details of the decoy were also found in the register. However, there were certain names of other patients wherein a star was made in green colour. While the name of complainant Mrs. Mohite and Mrs. Deodhar was indeed mentioned in the requisite forms, however the said records were incomplete and wrongly filled. The said room, in which sonography machine was kept, was sealed and taken to the civil hospital, Hambola.

Subsequently, a meeting was conducted by the PCPNDT Committee wherein he Doctor was given an opportunity of being heard. All the above mentioned details were placed and a decision was taken to file a complaint.

Accordingly, the Appropriate Authority a complaint was filed against Dr. Patel under Sections 23(1) for violation of Sections 5 and 6 of the Act and Rule 9(4) of the Rules and also against Mr. Mohite under Section 23(3) of the Act. On framing of charges, the Madhya Rashtira Medical Council suspended the sanad of the accused doctor by taking recourse to Section 23(2) of the PCPNDT Act, 1994. Aggrieved by such suspension of his sanad, he approached the Doctors Welfare Association which filed a Public Interest Litigation in the Supreme Court of Aryavart, challenging the Constitutionality of Section 23(2) which mandates that the Medical Council may take such action including suspension of the sanad of the medical practitioner once the charge is framed, Section 24 which talks about certain presumptions, Section 22, to the extent to which it prohibits advocating ways and means to conceive a male child other than by use of the technology, various circulars issued by several District Appropriate Authorities throughout Aryavart, mandating the installation of a device called "Silent Observer", which records the details of the sonography in the form of images and sends it to the District Appropriate Authority and various regulations and directions issued by the District Appropriate Authorities prohibiting the movement of sonography machine out of the place which was registered for the use of such machines. Dr. Patel also filed an Intervention Application and supported the Petition. He also prayed for a stay on the trial till the Supreme Court decided the said Petition.

However, the Supreme Court was not inclined to stay the matter and allowed the trial to proceed on its own accord.

As the complaint is treated as private complaint, matter is at the 'Evidence' stage before charge against Dr. Patel and Mr. Mohite by the Judicial Magistrate First Class, Khedanagar.

*Note- In the preliminary rounds, the teams are required to lead evidence and argue once from the Prosecution side and once from the Defense side. The teams qualifying for the semi final round are required to argue upon the Constitutional validity of the provisions which are under challenge before the Supreme Court. Thus, the Preliminary round shall be a Trial before the Court of the Judicial Magistrate first class, whereas the subsequent rounds shall be in the nature of arguments upon the Constitutional validity of the provisions which are under challenge. For elaborate details regarding the nature of the competition, please refer to the rules and regulations. The trial is to be conducted as per the procedure mandated by the Code of Criminal Procedure. Please note that all laws in the Union of Aryavart including the Pre-Conception and Pre Natal Diagnostic Techniques, (PCPNDT) Act are para materia to the laws as they exist in India. **The PCPNDT Act along with their latest amendment should be referred including Maharashtra Amendment if any.***

Statement of Complainant (Mrs. Kavita Mohite)

(P. W. 1)

Name: Mrs. Kavita Sachin Mohite

Age: 28 years

I am Kavita Sachin Mohite. I married Sachin Mohite in the year 2015 and am currently expecting our first child. On 12th July, 2017, while I was in the fourth month of my pregnancy, my husband told me that we would be going to a doctor who is a friend of his for certain additional tests. When I asked him the reason for the same he was enraged and yelled at me saying that it was to ensure that the baby was healthy. I then asked him why we were not going to my regular gynaecologist Dr. Sadhana Joshi, to which he said that his friend was a very famous doctor in not only Vijaypura but well acclaimed in the entire state of Madhya Rashtra, and that we were fortunate enough to secure an appointment after my husband paid him a hefty sum of money for the same. He also shouted at me saying that I was not taking care of the child I was carrying and that I should not ask him any questions in this matter and that his word was the final decision.

We set out of our house at around 12:30 pm in the afternoon and roughly after an hour's drive reached the Rampur area of Vijaypura. Being excessively superstitious by nature, my husband had ordered that I keep my face covered right from the time we left home till we would reach his friend's clinic which I acquiesced to, not wanting to be engaged in an argument with him. Surprisingly, he himself wore a cap, put on a pair of

sunglasses, and tied a handkerchief across his face, which was quite unusual of him, but knowing his eccentric nature, I chose not to ask him anything about the same. We got out of the taxi and after walking for about a kilometre or so, were at the mouth of a narrow, dinghy lane. That being a day when it was raining very heavily, not many people was seen around.

At a distance of around 20 metres from the starting point of the lane, we stopped outside an aging two-storeyed structure. There were no houses or shops around this structure. The door was shut and bore the name-plate of 'Dr. M. R. Patel'. There was a small wooden plank on the door on which my husband knocked in a specific pattern. The door was opened by a lady who asked us to get inside quickly, and immediately shut the door behind us. There were no other patients or relatives at that time in this clinic, and the lady who had opened the door upon me asking her about the same told me that the doctor was very particular about all his patients and was keen to ensure that every case would get the best possible attention and so did not like to have the clinic crowded with patients. My husband ordered me to not ask any questions and remain silent. For a clinic located in a place so off the path, it was spacious and well-maintained from inside.

Just as we settled in the reception area, a man came from the room opposite the reception desk and introduced himself as Dr. Patel and shook hands with my husband, advising him not to be nervous and assuring him that everything would be fine, further stressing that if not, there were always other options. He then asked the woman to take me to the table. The

woman asked me to follow her. She led me through a door behind the entry desk. There was a small passage behind this door which led to a flight of stairs. We went up the stairs. Having reached upstairs, I saw that there was only one single cot, a screen for viewing and other medical equipment. This room had no windows and there was a small door towards the left of the stairs. The woman gave me the gown and asked me to change. After changing, I informed the nurse and then my husband and Dr. Patel came upstairs. Patel asked me to lie on the cot and conducted preliminary examination. He asked me general questions about my pregnancy. Then, the woman gave me a writing pad on which some forms were attached for my signatures. I took the writing pad and realised that the forms were pertaining to certain ultrasound procedures which were going to be carried out on me. I stated that the same was not necessary as my regular doctor had carried out the said process just a week ago. At this juncture, Dr. Patel said that he was going to reveal the gender of my baby. I was shocked and vehemently refused to undergo this abhorrent procedure. However, my husband ordered me, rather aggressively, and I feared that he might become physically aggressive towards me to make sure that I would undergo the said process. Apprehending that the safety of my baby and me was possibly in danger, I reluctantly gave in to the demands of my husband.

I was made to lie down on the cot by the nurse and she applied some gel. The test was conducted by Dr. Patel himself. He was observing the television like screen to which many wires were attached. He then asked me

to get down from the cot and pointed out at a frame of a goddess and started worshipping the said photo frame which was in the room. He repeatedly started saying Jai Mata Di. Dr. Patel informed her husband that they may start distributing barfis.

My husband shook his head ruefully and stated that he wanted the child to be aborted. I expressed great protestations on my husband announcing his decision, but in spite of that, he fixed up an appointment with Patel around the same time, the very next day. We were set to leave, but before we could have left, my husband again asked me to cover my face, while he himself did the same. As we were at the door, about to leave the nurse asked my husband to complete certain formality which was pending. As he went inside, I quickly noted the address and telephone number of the clinic and also contact number and detailed address of the District Appropriate Authority established under the PCPNDT Act, 1994.

On reaching home, when my husband went out for some errand, I quickly contacted the District Appropriate Authority who reassured me that they would take the necessary steps.

Sd/-

(13/07/2018)

Mrs. Kavita Mohite

Statement of decoy (Mrs.Veena Deodhar)

(P. W. 2)

I am Veena Madhav Deodhar. I have been a resident of Vijayapura village for four years since my marriage. I am a primary school teacher in the adjacent village, Khedgaon.

On 12th of July, 2017, I received a telephonic call from the office of the Appropriate Authority stating that the Authority had received complaint from a pregnant woman that a clinic in the Rampur locality of Vijayapura village and that they were intending to conduct a raid at the premises where the illegal sex-determination was allegedly being carried out. As I had earlier worked in a drive organised, about a year or two ago, by the Authority for creating awareness among women in the village against any superstitions or other illegal and misleading advertisements, if any, claiming to give 'guaranteed positive results' for giving birth to a male heir, I was acquainted on professional terms with one of the retired members of the Authority. The officer stated that this retired member had suggested my name for any help required by the Authority in carrying out its functions. They stated that they were looking for a woman who would be willing to go as a decoy at this particular clinic in order to conduct a sting operation to determine whether there were any contraventions of the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 or if there were any contraventions of the Rules made under the Act. They asked me if I would be willing to act as a decoy for the said purpose on a

humanitarian basis. I was four months along my pregnancy at that time. I consulted with my husband and he stated that he was supportive of my decision, whatever it would be. I was a bit apprehensive about the same, as I was worried about the safety of my child, if at all there would be any risks involved in the same, as I had neither been a decoy, nor had been in anyway remotely connected to such a task earlier. I expressed my apprehensions to the officer from the Authority who assured me that if I were to give my consent to my voluntary participation in the said act, they would ensure the safety of me and my child. My apprehensions allayed, we communicated our willingness and consent to act as a decoy. I was asked to report at the sub-office of the Appropriate Authority in Vijayapura village at 08:00 am on the next day, i.e. 13th of July.

At the sub-office, we were explained the procedure which was to be followed in the course of the sting operation. I was told to ask the doctor if the gender of my baby could be determined. It was also suggested that a question be put to the doctor if the child was found to be a girl child, could it be aborted in the fourth month of the pregnancy. My husband was told to record everything with the help of his audio recorder in his mobile phone and keep the mobile in his shirt pocket. Later we were told to submit the mobile phone from which the audio was taken by the Authority and stored in a pendrive. We reached the Patel Nursing home by 10am. On entering the clinic, the nurse who was at the reception desk asked us whether we had taken an appointment to which I replied negatively. Then she asked me to

enter my details in a register. Under the pretext of us being from another village, and stating that I was suddenly experiencing severe abdominal pains, we asked the doctor to examine me. The doctor asked me about my medical history and previous pregnancies, if any. I replied that I was currently bearing my second child, to which my husband stated irritably that he already was tired of the possibility of having to raise another girl child. I added sorrowfully that it was only by sheer misfortune of mine that the earlier child turned out to be a girl. My husband yelled irritably that he would give anything to know if we were going to bring home another sorrow and disappointment in the form of another girl child. He stated in frustration that he was tired and was seriously considering abandoning or even aborting the child and for which he said, he was in a position to give Rs. 50,000/- in cash for determining the sex and further Rs. 75,000/- if he would conduct an abortion lest the foetus be revealed to be a girl child. The numbers of the notes were written by the Appropriate Authority at their office itself.

At this statement of his, my husband appeared to be in shock and pretended to have said everything out of frustration. The words however had the expected effect and reflected how seriously he was considering abandoning or even aborting the child. He started out stating that there were certain medicines available in the traditional branch of medicine and that he would be willing to prescribe the same, if required in a future pregnancy, if we were keen on having a male child, as to quote him, time

had passed by then to take any 'corrective measures' in the current pregnancy. My husband stated that he was done with the element of surprise at the birth of the child having only come across disappointment in form of the birth of our one daughter and was willing to part with any treasure if only he could know the sex of the child I was carrying and if there was any possibility of a way out, if by his misfortune the child happened to be a female. At this juncture, the doctor remarked that anyone who could tell him the gender, let alone offer to abort the child was sure to cost him a fortune. My husband said that he was willing to pay any price, even at that very moment if there was a solution to his predicament.

The doctor stated that it was rather easy to correctly determine the sex of the unborn child with the help of a few medical invasive or even non-invasive tests. He said that it was in fact possible to even do the same in his very clinic, however added quickly that there were certain risks involved as a result of which the procedure was very costly. My husband asked if the doctor would be ready to perform the tests and even offered to pay huge sums immediately. Patel agreed. He said that since I was in the fourth month of my pregnancy, there was a possibility that a non-invasive method such as an ultra-sonography would be helpful to determine the gender. My husband then cautiously asked the doctor if he would carry out the test immediately.

Patel said that he was moved by our family's story and asked the nurse to guide me upstairs. The nurse led me through a door behind the

entry desk. There was a small passage behind this door which led to a flight of stairs. We went up the stairs and there was a small door towards the left of the stairs. I saw that there was only one single cot, a screen for viewing and other medical equipment in the room. This room had no windows. The nurse asked me to sign some forms. Upon asking which forms were those, she said that they were just a formality and gave me the probe which she had been carrying and asked me to go inside for changing. After changing, I informed the nurse and then my husband and Dr. Patel came upstairs. The nurse asked me to lie on the cot and she applied some gel. The test was conducted by Dr. Patel himself. He was observing the monitor to which many wires were attached. He then asked me to get down from the cot after which he started worshipping Sai Baba's photo frame. He said that Sai Baba has blessed you. At first we couldn't understand his unusual behaviour. Looking at our confused faces, he said, "*Now you can distribute pedhas.*" However after repeatedly using the phrase, we understood that it was a baby boy.

My husband showed that he was over joyed and thanked the doctor several times. Then, we went outside the clinic and gave the mobile phone to the officers of the Authority narrating the whole story.

Sd/-

(13/07/2018)

Mrs. Veena Deodhar

Panchnama

- 1) S. N. Patil
- 2) G. V.Parab

We, the abovementioned panchas, on being called by Dr. A. S. Gadgil, the Appropriate Authority visited Patel Nursing Home, Vijaypura. We were informed about the alleged illegal sonography tests that were conducted in the said Nursing Home. We were explained the objective of carrying out the panchnama and were requested to act as panchas for the same. Upon the said request, we agreed to act as panchas.

The following is the narration of the turn of events post reaching at the spot.

When I reached the location at about 12 p.m., the team of Dr. Gadgil along with his two officers were already present. The building was an aging two-storeyed structure. There were no houses or shops around this structure. The door was open and bore the name-plate of 'Dr. M. R. Patel, M. D. Radiologist'. There was a small wooden plank on the door.

As we entered through the door, there was a receptionist table exactly in front of us. There was a telephone on the table. There were many files on the left side of the table. There were many books including Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 which was available in English language. However there was no Marathi or Hindi copy of the Act which was the regional language. There was a certificate of the Registration of the Sonography Machine. Dr. Gadgil checked whether the

registration certificate and the sonography machine bore the same number which was found to be correct. However there was no any board saying that, *'sex selection and detection is not done in this Centre and is punishable under the PCPNDT Act'* in any language. We collected the receptionist register wherein we could find the names of the complainant as well as the decoy. As we checked through various files, we found the form F & G of many patients. After a careful scrutiny, it was observed by Dr. Gadgil that various forms were no completely filed and the details of the decoy and the complainant were wrongly filled. The name and number of children were wrongly entered. This was crosschecked with the details which were provided by the decoy and the complainant.

To the left of the entry desk, we saw a door. We open the door and go inside. The room is very small. Inside, there is a small cot which it attached to the wall on the north end of the room. There is a wooden table in this room. On one side of this table, one revolving chair of a leather-like fabric cover is placed. On the other side of the table there are two smaller chairs covered in simpler fabric. This room does not seem to have many utility items placed therein. On the western wall, there are certain charts of the human anatomy. On the table, there is a small table-clock and a pen stand. There is also an unused notepad on the table which bearing the initials and is in the form of letterhead of 'Dr. M. R. Patel, M.D'. This notepad is collected, sealed in a bag and we put our signatures on the same. This room

has a window on the eastern wall. On looking out of the window, we see the compound wall.

Then, there was a door behind the entry desk. There was a small passage behind this door which led to a flight of stairs. We went up the stairs. There was a small door towards the left of the stairs where we saw that there was only one single cot, a screen for viewing. The cot was on the right side wall of the room and the monitor was near the wall opposite the door from where we entered. There were photo frames of Sai baba and a goddess. This room had no windows. The room was rectangular in shape. We came across the apron which did not bear the name of the Dr. Patel which was collected. There were some more files in a small cupboard under the monitor of the Sonography machine, wherein a probe was found and collected. Dr. Gadgil sealed the whole room and the other documents, probe and register were collected by the officer. The money which was given by the decoy to the doctor was also collected and the numbers of the notes were also found to be the same.

After that, using a green cloth, the sonography machine was sealed and the registration certificate of the sonography instrument was cancelled. We marked our signature on a paper attached to the sealed machine.

The following things were thus collected:

- 1) Notepad in form of letter head of Dr. M. R. Patel
- 2) Register of the details of patient.
- 3) The currency notes which were given by the decoy.

- 4) The apron of the doctor.
- 5) The probe which was found in the sonography room
- 6) F Form register
- 7) G form register

The Panchnama was completed by 2 p.m. The above mentioned things collected were taken to the Civil Hospital. The statements of decoy and the complainant were recorded in front of us.

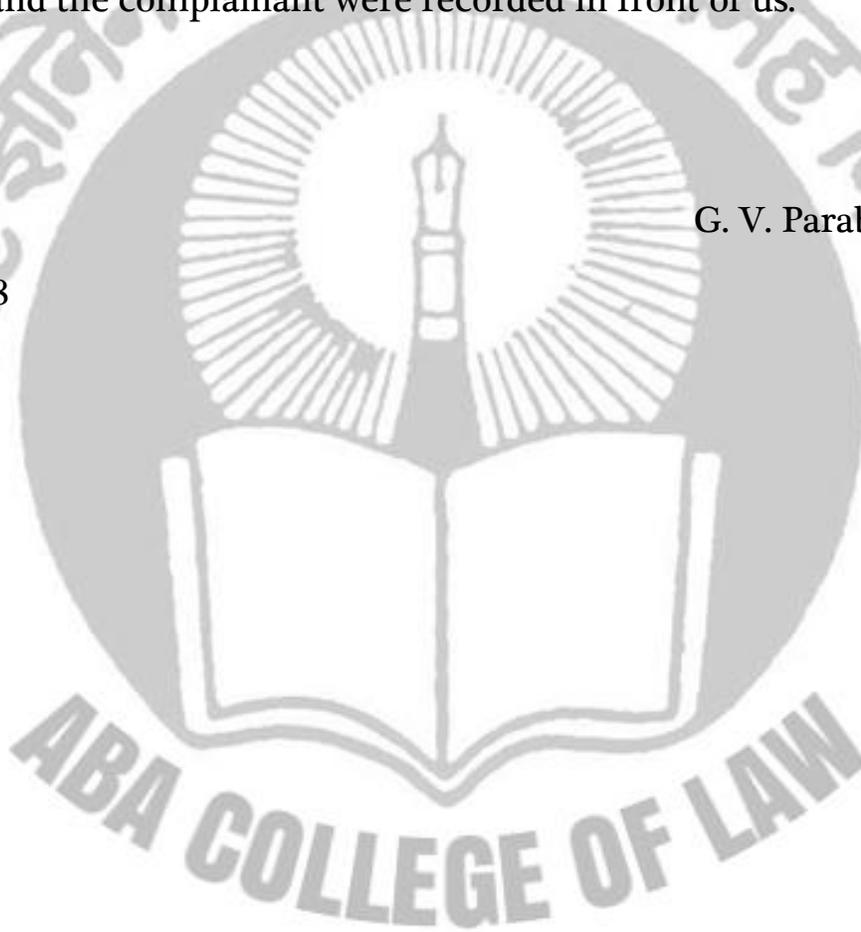
Sd/-

S. N. Patil

13/07/2018

Sd/-

G. V. Parab



Statement of Madhav Deodhar (Husband of decoy)

(P. W. 3)

My name is Mr. Madhav Dattatray Deodhar. I went with my wife to the clinic of Dr. Patel in Rampur locality of Vijaypura village which is adjacent to Khedgaon village where my wife Veena and I live. I work in the Khedgaon Head Office Branch of Madhya Rashtra State Bank.

On 12th of July, 2017, sometime around 05:30 pm in the evening, my wife, Mrs. Veena Madhav Deodhar who works as a primary school teacher in Khedgaon received a phone call from the sub-office of the Appropriate Authority. Veena narrated the entire incident to me after I returned home, shortly after she had received the phone call. They were looking for a pregnant woman who would be ready and willing to go as a decoy to the clinic of one Dr. M. R. Patel in order to conduct a sting operation to determine whether there were any contraventions of the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 or if there were any contraventions of the Rules made under the Act. The Authority had received information that Dr. Patel was allegedly carrying illegal sex determination test. Veena consulted me. She also expressed her apprehensions regarding the safety of our child which my four month pregnant wife was carrying at that time. She also stated that if we would convey our assent to the request of the Authority, they had assured her that they would take steps to ensure the safety of Veena and our baby. I told Veena that she would have my complete backing and support, whatever

would be her decision. Her apprehensions and trepidations allayed, Veena conveyed her assent to the Authority.

We were asked to report at the sub-office of the Authority in Vijaypura the next day i.e. on 13th July. At the office we were explained the procedure to go about the entire operation. I was told to record the entire conversation which would take place between the doctor and us when we would be at his clinic on a phone's audio recorder. This phone was given to me by the Authority at the sub-office. They also handed me an envelope and stated that when I would be striking up a conversation with the doctor to see if he would take up the offer of determining the gender of our baby. I was also told that the officers at the Authority had already noted down the serial numbers on the currency notes.

We reached the clinic around 10 am. When we reached the clinic, a woman asked if we had an appointment with Dr. Patel. When Veena answered in the negative, the lady asked Veena to enter her name into a register. We told that we wherefrom another village and had come to Vijaypura to meet our relatives and that Veena had suddenly developed severe abdominal pains which prompted us to seek medical attention from Dr. Patel.

While examining her, Dr. Patel asked Veena about her previous pregnancies to which she replied that we were currently expecting our second child and that we already had a daughter. As was pre-decided, at this juncture, I appeared to sound irritated and stated that the possibility of

bringing home another girl child was already bothering me. Veena replied that it was only by sheer misfortune that she had given birth to a girl child earlier. In response, I actually yelled stating that I would give anything to know if we were bringing home another disappointment in form of a girl child and also added that I was in a position to pay Rs. 50,000/- in cash to any person who would determine the sex of our child and also added that I would give even rupees 75,000/- at least to that person who would be ready to abort the child if it turned out to be a girl child. Having said this I pretended to have said all of that only out of frustration and distress, but the words had their desired effect.

The doctor started off on a cautious note as if he was still rather having second thoughts about whether he should be trusting what I had just said casually told that there were certain medicines available in the traditional branch of medicine and that he would be willing to prescribe the same, if required in a future pregnancy, if we were keen on having a male child, as to quote him, time had passed by then to take any 'corrective measures' in the current pregnancy. I added with a dejected tone that I was done with the element of surprise at the birth of the child having only come across disappointment in form of the birth of our one daughter and was willing to part with any treasure if only I could know the sex of the child my wife was carrying and if there was any possibility of a way out, if by his misfortune the child happened to be a female. At this juncture, the

doctor remarked that anyone who could tell him the gender, let alone offer to abort the child was sure to cost him a fortune.

The doctor stated that it was rather easy to correctly determine the sex of the unborn child with the help of a few medical invasive or even non-invasive tests. He said that it was in fact possible to even do the same in his very clinic, however added quickly that there were certain risks involved as a result of which the procedure was very costly. I asked if the doctor would be ready to perform the tests and even offered to pay huge sums immediately. Patel agreed. He said that since Veena was in the fourth month of her pregnancy, there was a possibility that a non-invasive method such as an ultra-sonography would be helpful to determine the gender. Cautiously, not wanting to sound suspiciously eager, I asked the doctor if he would carry out the test immediately.

Patel said that he was moved by our family's story and asked the nurse to guide Veena upstairs. As Veena left with the nurse, the doctor asked me to ensure that I would not let anyone know that a sex determination test was being carried out by him. He told me about the risk involved and that the amount required if the child was found to not be a boy which was Rs. 75000/-. He also asked me to look into it that Veena would not reveal even slightest of the details to anyone. I gave him my word and further added that my position in the society was also at stake. We then went upstairs from a small passage like way behind the door at the reception where Veena had entered the details when we entered the clinic.

The nurse then asked Veena to lie on the cot as she applied some gel on Veena's abdomen. The test was conducted by Dr. Patel himself. He was observing the monitor to which many wires were attached. He then asked mywife to get down from the cot after which he started worshipping Sai Baba's photo frame. He said that Sai Baba has blessed you. At first we couldn't understand his unusual behaviour. Looking at our confused faces, he said, "*Now you can distribute pedhas.*" However after repeatedly using the phrase, we understood that he was trying to convey that he had determined the gender of the baby to be a male.

I showed that I was overjoyed with ecstasy and thanked the doctor several times. Then, we went outside the clinic and gave the mobile phone to the officers of the Authority narrating the whole story.

Sd/-

(13/07/2018)

Madhav Deodhar

ANNEXURE: TRANSCRIPTS

In the course of the trial, at the stage of leading evidence, the Appropriate Authority produced the audio recording which was recorded by the decoy witnesses. Transcripts of the same which are to be relied upon by the participants are as reproduced below:

(Noise of knocking on the door is heard. A creaking sound of opening of the door is heard.)

Nurse: Hello. How may I help you?

Mr. Deodhar: We are here for my wife. She is experiencing severe abdominal pains. She is four months pregnant. We wanted to know if Dr. Patel could possibly see her.

Nurse: Do you have an appointment?

Mrs. Deodhar: No. We do not. In fact we are not from this village, but have come here to meet some relatives. Is it possible for the doctor to see me?

Nurse: Kindly enter your name and details in this register.

Nurse: Doctor Patel, she has been experiencing severe abdomen pain...

Mr. Deodhar: Doctor Patel, good morning.

Dr. Patel: Good morning. What is your name?

Mr. Deodhar: Doctor, I am Madhav Deodhar, and she is my wife Veena. I have come to visit our distant relatives staying in this village with my pregnant wife. She has suddenly started experiencing severe abdominal pains and we were told that you are best gynaecologist in this village. Could you please examine her? We would be greatly indebted if you could do the needful.

Dr. Kharat: Well, I do have a few appointments lined up for the day....

Mrs. Deodhar: We won't take much of your time. I promise. Please. I am just worried about my child. I don't want anything to go wrong. I just want to make sure everything goes right, at least this time around.

Mr. Deodhar: Well of course. We have already had our share of disappointments, haven't we? That's enough for a lifetime.

Dr. Patel: I am sorry, I didn't get you. Were there any complications which developed in the course of your previous pregnancy or pregnancies, if at all I stand to be corrected?

(Sound of the door being opened and closed.)

Dr. Patel: Please have a seat. Mrs. Deodhar what are the symptoms you have been experiencing, and since when?

(Sound of moving of chairs.)

Mrs.Deodhar: I had been experiencing slight pain in my lower abdomen for the past two days. However, last night, while at our relatives' place the intensity increased. So we decided to come and see you today.

Dr. Patel: Is this your first child?

Mrs.Deodhar: No. I am currently expecting my second child.

Dr. Patel: Have you experienced such symptoms in your first pregnancy? Were there any complications which developed back then?

Mrs. Deodhar: No, I did not have any complications and

Mr. Deodhar: Well, unfortunately, I must add. I now have to raise that obnoxious female. A male heir. That's all I was asking for. Was it too much? Definitely not. I so wish I could know what the gender of the child was and get rid of the hateful female before even bringing her into this world if I could! I would part with any treasure I possess just to know what is it that has been served in my fate. This is all because of you. You have failed to bless me with a son. This is what I get from you in return for all the pain and effort I put in for you. I am so frustrated at the very idea of the likelihood that we shall be bringing home another sorrowful disappointment in the form of a female child twice over; I am seriously considering abandoning the child.

Mercy be to the Almighty if I can know what's in store for me. Just to tell you doctor, I am so bothered with this niggling predicament which is most likely to turn a lifelong trouble for me, I am willing to pay any man who will be in a position to tell me the exact outcome of this pregnancy. In fact, let me tell you something. I am actually carrying cash. Just to hand over to any man who can pull me out of this situation.

(Sound of a zipper of a bag being opened. Some shuffling sound is heard. The sound of some material being placed against another surface is heard.)

Here, this envelope that you see contains actual hard cash containing rupees fifty thousand. In its entirety. No conditions attached. This, doctor is for any person who shall tell me the sex of my unborn child. Cash as my humble token of gratitude for any person who can tell me the gender of the unborn child. Well, a man must at least be given what is his due, aren't I right, doctor?

Dr. Patel: Mr. Deodhar-

Mr. Deodhar: Oh! I apologise doctor. It all just... Well, you must understand doctor. It is not an easy affair, you know- having to raise a female child. It is like a loan the interest on which increases per day. It is a liability which I am not willing to bear. Definitely not the second time around. No sir!

Dr. Patel: Well, I cannot say that I don't understand your point of view. I have been in this profession long enough to understand your sentiments. It is absolutely and solely your decision, to which I must add that this conversation shall remain private and undisclosed. It is my duty towards you as a doctor.

Mrs. Deodhar: We get whatever has been planned by destiny for us. What is it that I can do? It is sheer misfortune that fate bestowed upon us.

Dr. Patel: Well, there are certain medicines available in the traditional branch of medicine. These medicines have in fact in several cases been of great help for couples as desirous as you to seek a male child. If fortune does not favour you this time, and should you have any undesired consequence, I shall willingly prescribe such medicines if you require in the future. I must add however, it is too late at four months in the course of the current pregnancy to take any corrective measures in this regard.

Mr. Deodhar: I am done with the element of surprise and what-nots at the birth of the child doctor. I am willing to give away any sum as I just told you-

Dr. Patel: You must understand, Mr. Deodhar. Any person who shall provide you these services shall necessarily cost you a fortune. Just for your information good sir, the tests to determine gender

of the child are relatively very easy. You have both, invasive as well as non-invasive tests available for the same. In fact the test can be carried out here in my clinic as well. But as a doctor I must tell you that there are certain risks involved and the entire process can be very costly.

Mrs. Deodhar: I disagree. We don't have to-

Mr. Deodhar: Shut up! I am talking business here. Stay out of this and let me deal with this. I am definitely not going to get home another girl child after the one I have been forced to raise. Can you, rather, will you carry out a sex determination test on the child my wife is carrying? Please doctor. Answer this question of mine.

Dr. Patel: Yes. Since your wife is in the fourth month of her pregnancy, a simple non-invasive test such as an ultra-sonography can help to determine the gender of your child instantly.

Mr. Deodhar: Doctor, please tell me. Can you carry out this test right now?

Dr. Patel: I am deeply moved by your family's story. I absolutely understand your position and shall do anything in my capacity to help you out. (Rings a bell) Nurse, take this lady upstairs.

(Sound of door creaking followed by some footsteps. Sound of creaking door heard again. Footsteps are being heard.)

Dr. Patel: Now you must understand Mr. Deodhar. All of this must stay between us. As you might be aware, we doctors often face a lot of trouble because of this. I am doing this solely with the intention to help you out at your insistence as I understand you want the best for yourself, which I believe is a valid demand. If the results of the report are not as per your expectation, the next procedure will cost about Rs. 75000/-.

Mr. Deodhar: I understand doctor and I have made the arrangements for your fees. Rest assured this shall not cause you any trouble in the future. After all, even your position is at stake. Don't worry about my wife saying a word about this anywhere. I will handle her well.

Dr. Patel: If that's the case, I think we too should now go upstairs and see what the results are. I wish you well.

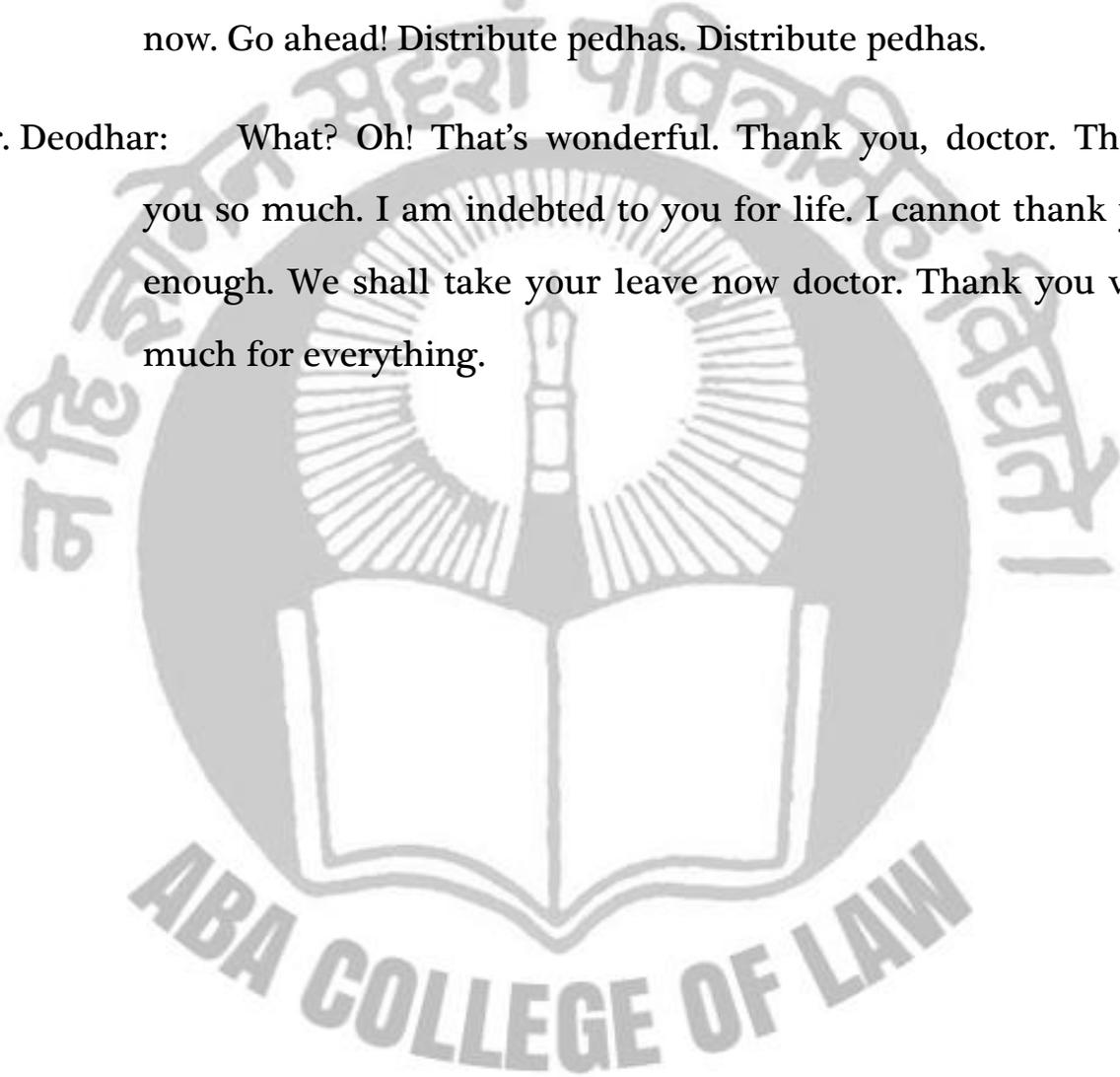
(Sound of some footsteps. Sound of creaking door heard. Footsteps are being heard.)

Nurse: Madam, lie down on the cot. The doctor shall now be carrying out the test. Please sign the forms which are a part of the formalities.

Mr. Deodhar: Doctor, what is it? Please tell me quickly.

Dr. Patel: Just a minute... Oh! Sai has blessed you. Baba has blessed you! Sai Baba has showered you with his blessings. HIS blessings. Do you understand? Congratulations. You can distribute pedhas now. Go ahead! Distribute pedhas. Distribute pedhas.

Mr. Deodhar: What? Oh! That's wonderful. Thank you, doctor. Thank you so much. I am indebted to you for life. I cannot thank you enough. We shall take your leave now doctor. Thank you very much for everything.



IN THE COURT OF HON'BLE JUDICIAL MAGISTRATE FIRST CLASS,
HAMBOLA

PRIVATE CRIMINAL COMPLAINT NO.177 OF 2018

Appropriate Authority of Hambola

Dr. A S Gadgil

... Complainant

v/s

Dr. M R Patel & Anr

... Defendants

CERTIFICATE

I Mr. Madhav Deodhar, husband of the decoy Mrs. Veena Deodhar in this Criminal complaint bearing number 177 of 2018, am appearing in person herein, do hereby certify that:-

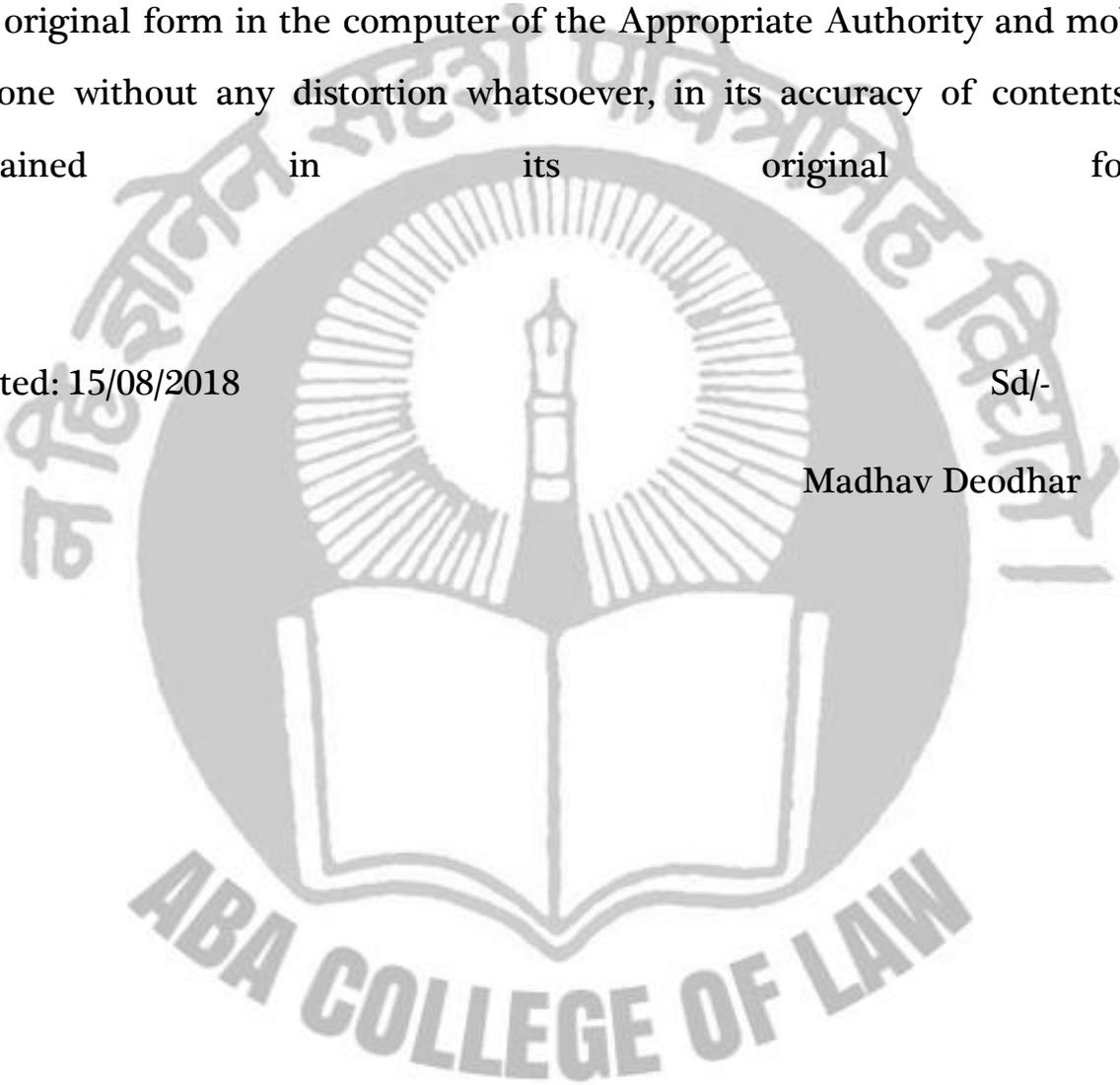
a) Hereby produced are the true hard copies of the audio transcripts which represent the communications between Dr. Patel, my wife Mrs. VeenaDeodhar and myself as elaborated in the transcripts. I crave leave to refer to and rely upon typed/clear copies of the same at the time of hearing.

b) I further confirm that the contents of the hard copies of the electronic records are identical to the audio stored in the pen drive and the mobile phone operated by me in its normal course & primary copies are retained in its original form in the computer of the Appropriate Authority and mobile phone without any distortion whatsoever, in its accuracy of contents as retained in its original form.

Dated: 15/08/2018

Sd/-

Madhav Deodhar



FORM G

[See Rule 10]

FORM OF CONSENT

(For invasive techniques)

I, Kavita S. Mohite wife/daughter of Mr. Sachin Mohite Age 28 years residing at 103 Vivek Apartment, B wing, Rampur, Vijayapura, Taluka Khedanagar, Dist. Hambola, Madhya Rashtra, hereby state that I have been explained fully the probable side effects and after effects of the pre-natal diagnostic procedures.

I wish to undergo the pre-implantation/pre-natal diagnostic technique/test/procedures in my own interest to find out the possibility of any abnormality (i.e. disease/deformity/disorder) in the child I am carrying.

I undertake not to terminate the pregnancy if the pre-natal procedure/technique/test conducted show the absence of disease/deformity/disorder.

I understand that the sex of the foetus will not be disclosed to me.

I understand that breach of this undertaking will make me liable to penalty as prescribed in the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and rules framed thereunder.

Sd/-

Date : 12/07/2018

Signature of the pregnant woman.

Place: Vijaypura

I have explained the contents of the above to the patient and her companion (Name. Mrs. Kavita S. Mohite and Mr. Sachin G. Mohite Address 103 Vivek Apartment, B wing, ABC Road, Khedanagar, Madhya Rashtra, Relationship husband and wife) in a language she/ they understand.

Sd/-

Dr. M R Patel

Reg. No.: MR641212

Name, Signature and/Registration
number

Gynaecologist/Medical

Geneticist/Radiologist/Paediatrician

Date: 12/07/2018

FORM G

[See Rule 10]

FORM OF CONSENT

(For invasive techniques)

I, Mrs. Veena Deodhar wife of Sagar Deodhar, Age 28 years residing at 301, Omkar Apartment, Mahim, Dist. Hambola, Madhya Rashtra, hereby state that I have been explained fully the probable side effects and after effects of the pre-natal diagnostic procedures.

I wish to undergo the pre-implantation/pre-natal diagnostic technique/test/procedures in my own interest to find out the possibility of any abnormality (i.e. disease/deformity/disorder) in the child I am carrying.

I undertake not to terminate the pregnancy if the pre-natal procedure/technique/test conducted show the absence of disease/deformity/disorder.

I understand that the sex of the foetus will not be disclosed to me.

I understand that breach of this undertaking will make me liable to penalty as prescribed in the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and rules framed thereunder.

Sd/-

Date : 13/07/2018

Signature of the pregnant woman.

Place: Vijaypura

I have explained the contents of the above to the patient (Name. Mrs. Veena Deodhar and Mr. Sagar Deodhar, Address 301, Omkar Apartment, Mahim, Madhya Rashtra) in a language she/ they understand.

Sd/-

Dr. M R Patel

Reg. No.: MR641212

Name, Signature and/Registration
number

Gynaecologist/Medical

Geneticist/Radiologist/Paediatrician

Date: 13/07/2018