2026 INSC 901

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2938 of 2025

STATE OF UTTAR PRADESH & ANR. ...APPELLANT(S)

VERSUS

BRIJ PAL SINGH & ANR. ...RESPONDENT(S)

J U D G M E N T

SANJAY KAROL J.

Contents

THE APPEAL

1. This appeal proceeds on a certificate issued by the High Court of Judicature at Allahabad and under Article 134-A read with Article 134(1)(c) of the Constitution of India regarding the interpretation of the provisions of the Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994[1], arising out of a petition under Section 482, Code of Criminal Procedure, 1973[2] filed by the Respondent, seeking quashing of the chargesheet drawn against him under Sections 315 and 511 of the Indian Penal Code, 1860[3] and Sections 4, 5(2), 6(a), 23 and 25 of the PCPNDT Act, flowing from FIR No. 628 of 2017. The FIR was a consequence of secret information having been received by the District Magistrate, Bulandshahar, who is the appropriate authority[4] within the Act, of illegal sex determination of foetus, being carried out by Respondent no.1 and others, who then deputed the Tehsildar of the Khurja District as the Authorised Officer[5] to conduct a decoy operation to unearth the truth. Having found out information through such operation, a raid was conducted at the hospital, which led to the initiation of proceedings, the subject matter of the quashing petition.

2. While the quashing petition ultimately came to be accepted, the learned Single Judge undertook an extensive overview of the provisions of the Act and the decisions given by other High Courts, eventually to point out that contrary views had been taken on the same question regarding the role of police in investigation and the

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[1] PCPNDT Act /the act
[2] CrPC
[3] IPC
[4] AA
[5] AO

applicable procedure in PCPNDT Act offences. As such, considering the importance of the questions involved, the learned Single Judge issued the certificate of appeal, observing as under:

> *"Question 1 Whether, for offences under the PC & PNDT Act the registration of FIR at the police station is permissible, merely because the offences under the PC & PNDT Act have been made cognizable and non-bailable?*
> *Question 2 – Whether the police investigation is permissible for the offences under the PC & PNDT Act? AND Who can investigate the complaints, received for violation of the provisions of the PC & PNDT Act?*
> *Question 3 – Whether on the chargesheet submitted after the investigation by the police, the competent magistrate can take cognizance of the offence under the PC & PNDT Act?"*

THE BACKGROUND TO THE QUESTIONS

3. The background to these questions is the difference of opinions between High Courts on whether State Police is competent to register FIRs and investigate offences under the Act and also whether the concerned Magistrate can take cognizance of the chargesheet so filed. The following two tables encapsulate the judgments considered by the Learned Single Judge to frame the questions for consideration we extracted above.

IN FAVOUR OF POLICE INVESTIGATION				
S.NO.	**CASE NAME AND CITATION**	**COURT**	**DISCUSSION ON POLICE INTERVENTION**	**REASONING**
1.	***"Dr. Varsha Gautam vs. State of U.P. and others, 2006 SCC OnLine All 1611"*** Page 22 of	Allahabad High Court (Division Bench)	The statutory prohibition against taking cognizance does not apply at the initial stage of police investigation. The lodging of an F.I.R. and subsequent police investigation into a cognizable offence	1.Relying on *"M. Narayan Das v. State of Karnataka, (2003) 11 SCC 251"*, it reasoned that a statutory bar only comes into operation at the specific chronological stage

	impugned order, para 34		under the Act are fully permitted.	when a Court intends to take cognizance under Section 190(1) Cr.P.C. 2.Section 28 of the Act does not control or circumscribe the independent statutory power of the police to investigate an F.I.R. that discloses a cognizable offence in accordance with Chapter XII of the Cr.P.C.
2.	***"Dr. Rahul Malik vs. State of U.P. and 3 Ors.,2017 SCC OnLine All 4589"*** Page 23,24,5| Para 10, 35, 37 of impugned order	Allahabad High Court (Division Bench)	Refused to quash an F.I.R., flatly holding that there is no bar to the registration of an F.I.R. and its subsequent investigation by the police for offences under the PC&PNDT Act.	1.The court's primary reasoning was anchored strictly to the explicit text of Section 27 of the PC&PNDT Act, which mandates that every offence under this Act shall be cognizable, non-bailable, and non-compoundable. 2.Once a non-bailable, cognizable offence is reported via an F.I.R., the standard police machinery is automatically triggered under general law. The police have the statutory power and duty to investigate the reported crime and submit a report, provided a prima facie case is disclosed.

3.	***"Manoj Krishan Ahuja vs. State of NCT of Delhi and Another, 2023 SCC OnLine Del 2303"*** Page 27 | Para 41, 52, 54, 84 of impugned order	Delhi High Court (Single judge)	The registration of an F.I.R. by the police is not expressly barred under the Act when information is received from the Appropriate Authority	1.When the Appropriate Authority informs the police about the commission of an offence under the Act, the police are duty-bound, and it is mandatory for them to register an F.I.R. if the allegations disclose a cognizable offence. 2. Relying on *"Rasila S. Mehta v. Custodian, 2011 (6) SCC 220",* the court applied a purposive rule of interpretation. It reasoned that the statutory purpose cannot be defeated or allow offenders to "sneak out of the meshes of law" based on a narrow construction or lack of absolute clarity in the text of the Act. 3. While a police investigation is permitted to ensure cognizable offences are documented, the bar under Section 28 remains absolute against taking cognizance solely on the police charge sheet.

4.	***"Dr. Anant Ram vs. State of Haryana, 2022 SCC OnLine P&H 2284"*** Page 25 | Para 40 of impugned order	Punjab & Haryana High Court (Single judge)	Held that there is no absolute bar under the PC&PNDT Act against the police investigating a case.	1.The inclusion of the words "as far as possible" within Rule 18A(3)(iv) suggests that while police involvement should ordinarily be avoided due to the specialized nature of the equipment, it cannot be interpreted as an absolute statutory prohibition against the police. 2.'Cognizance by Court' and 'Investigation of offence' are two entirely distinct legal concepts operating in separate chronological domains. Investigation precedes cognizance; therefore, police action can proceed during the investigative stage even if the final court action requires a formal complaint.
5.	***"Dr. Aparna Singhal v. State of Haryana, Criminal Misc. No. M-421 of 2021"*** Page 25 | Page 39 of impugned order	Punjab & Haryana High Court (Single judge)	Affirmed that an F.I.R. can be registered and investigated by the police, validating a dual-track procedure for filing reports.	Following the larger Division Bench ruling in Hardeep Singh, it reasoned that after completing an investigation, the police can validly compile their report as a Kalandra (police report) and hand it over directly to the District Appropriate Authority.

6.	***"Dr. Randhawa Ultrasonography Imaging and Research Institute and Others v. State (NCT of Delhi) and Another, 2025 SCC OnLine Del 3389"*** Para 79-91 of the above	High Court of Delhi (Single judge)	The police are legally bound to register an FIR for cognizable offences, and their powers of investigation are not completely ousted under the PC & PNDT Act. However, the court cannot take cognizance of the police report/charge-sheet alone.	1.Section 27 of the Act makes offences cognizable and non-bailable, which mandates the police to register an FIR under Section 154 CrPC. 2.The phrase "as far as possible" in Rule 18-A(3)(iv) implies that police investigation is discouraged but not completely barred or ousted. 3.Section 28 only bars a court from taking cognizance of an offence except on an Appropriate Authority's complaint; it does not bar the registration of an FIR, police investigation, or filing of a charge-sheet.
7.	***"Uravashi Fakay v. State of NCT of Delhi (and connected petition), 2023 SCC OnLine Del 8091"*** Para 62, 63, 68, 71, 72, 74 of the above	High Court of Delhi (Single judge)	Police registration of FIR and subsequent investigation are legally permissible, but taking judicial cognizance based on a police report/charge-sheet is strictly prohibited.	1. Under Section 4(2) of the CrPC, all offences under any special law are to be investigated according to the CrPC unless an express exception is provided. Since offences under the PC & PNDT Act are explicitly 'cognizable' under Section 27, the registration of an FIR or investigation by the police as per law is not barred.

				2.Absolute Bar on Cognizance: Section 28 explicitly prohibits courts from taking cognizance of an offence except upon a complaint by the Appropriate Authority or an authorized person. Because a 'police report' (under Section 2(r) CrPC) is legally distinct from a 'complaint' (under Section 2(d) CrPC), taking cognizance on a police charge-sheet is completely void and bad in law. 3.Section 210 CrPC requires a valid order taking cognizance on a police report, which is impossible here due to Section 28. Similarly, a police report cannot be treated as a Section 202 inquiry report because Section 202 applies strictly to inquiries directed by the Magistrate during complaint proceedings, whereas this investigation was independently conducted via an FIR.

8.	***"Ila Sood v. State of Punjab, 2022 SCC OnLine P&H 946"*** Para 14-19 of the above	High Court of Punjab and Haryana at Chandigar h (Single judge)	An FIR is clearly maintainable, and the police can investigate offences under the Act.	1.The Court relied on a Division Bench reference *"Hardeep Singh v. State of Haryana, (2008) 12 SCC 39"*, which resolved the apparent conflict between Sections 27 and 28 of the Act 2.Section 27 explicitly mandates that every offence under the Act is cognizable, meaning police registration of an FIR and subsequent investigation are legally permitted. 3.Section 28 dictates the mechanism for taking cognizance (which is restricted to an Appropriate Authority's complaint). Therefore, a Section 173 report can be submitted, but the trial court will only take cognizance if it is accompanied by a proper complaint. 4.If an accused faces both an FIR and a private complaint for the same offence, they can be clubbed under Section 210 CrPC, and the trial will then proceed together as if instituted on a police report.

9.	***"Dr. Dhamayanthi Rajkumar v. State Rep. by Inspector of Police and Another, 2022 SCC OnLine Mad 9462"*** Para 14, 20-27 of the above judgement	High Court of Madras (Single judge)	Police are bound to register an FIR and investigate cognizable offences under the Act, but cannot directly file a final report for trial.	1.Section 17(4) confers investigative powers on the Appropriate Authority, but this is not an exclusive power and does not automatically strip the police of their general power to investigate cognizable offences. 2.The Act does not grant the power of arrest to the Appropriate Authority. If the police were barred from registering an FIR and investigating, they could not make imminent arrests to prevent ongoing offences (like further sex selection tests), which would defeat the core object of preventing female feticide. 3.Taking cognizance for investigation (police stage) and taking cognizance for trial (court stage) are distinct. Section 28 only restricts the court from taking cognizance for trial except on an Appropriate Authority's complaint; it places no express bar on the police during the investigation stage.

AGAINST POLICE INTERVENTION				
S.NO	**CASE NAME AND CITATION**	**COURT**	**DISCUSSION ON POLICE INTERVENTION**	**REASONING**
1.	***"Dr. Amritlal Rohledar vs. State of Chhattisgarh, (2019 SCC OnLine Chh 137)"*** Para 46, Page 35 of impugned order	Chhattisgarh High Court (Single Judge)	Police investigation is completely barred. No power or jurisdiction has been conferred on a Station House Officer (SHO) to investigate offences under the Act, despite them being labeled cognizable.	1.The statutory rules mandate that, as far as possible, the police should not be involved because these are strictly complaint cases under the Cr.P.C. 2.Under Section 4 and Section 5 of the Cr.P.C., when a special law prescribes its own specific form/place of investigation, it carves out an exception that completely overrides general police powers.
2.	***"Ramesh Chandra Naik v. State of Orissa, (2018 SCC OnLine Ori 480)"*** Para 44, page 32 of impugned order	Orissa High Court (Single Judge)	Police FIR & Charge Sheeting are invalid for taking cognizance. The Magistrate commits a distinct illegality if they take cognizance of PC&PNDT offences based on a standard police investigation report/charge sheet.	Under Section 28 of the Act, a court is strictly restricted from taking cognizance except on a formal complaint. Under Section 2(d) of the Cr.P.C.,the definition of a "complaint" explicitly excludes a police report. Therefore, a police charge sheet cannot legally substitute a statutory complaint petition.

3.	***"M/s Sujatha Scan Centre vs. The State of Telangana, (W.P. No. 18904 of 2018 / LAWS(APH) 2018 7 39)"*** Para 45, page 34 of impugned order	Telangana & Andhra Pradesh High Court (Single Judge)	Registration of crime and investigation by the police is completely illegal. The police have absolutely no role to play in the investigation of these cases.	The investigation of these offences relies entirely on scientific gathering of evidence by specialists with medical knowledge (doctors). The ordinary police do not possess the competence to collect or evaluate scientific/technical material in this field.
4.	***"Dr. Sai vs. State of Maharashtra, (2016 SCC OnLine Bom 8812)"*** Para 43, page 30 of impugned	Bombay High Court (Aurangabad Bench) Division bench	Police have been deliberately kept out of the purview of initiating prosecution. The absolute legal process, from receiving a tip-off to full investigation,is placed exclusively in the hands of the Appropriate Authority	1.The legislature intentionally drafted Section 28(1)(a) to insulate citizens and medical practitioners from the misuse of the law by keeping standard police machinery out of the prosecution loop, despite the offences being made non-bailable and cognizable under Section 27. 2.Read together, Sections 17, 17A, and 28 demand that the Appropriate Authority act as a full-fledged independent investigator rather than just an agency that forwards police findings.

5.	***"Manvinder Singh Gill (Dr.) vs. State of M.P., (2013 SCC Online MP 10918/ ILR (2014) MP 1176)"*** Para 47 - page 36, Para 48- page 39 Of impugned order	Madhya Pradesh High Court (Indore Bench) (Single Judge)	"Private complaints filed under Section 28 by officers merely nominated by the District Magistrate for 'monitoring' (Additional Collectors), without formal gazette notification under Section 17 as Appropriate Authority or authorised officer, are incompetent; cognizance taken thereon is unsustainable." (para 13-14)	"Appointment of the Appropriate Authority or an authorised officer under Section 17/28(1)(a) must be by formal Gazette notification of the Central/State Government; an internal administrative nomination order of the District Magistrate cannot substitute for this and cannot empower the nominee to file a complaint." (Paras 11, 14, citing A.K. Roy v. State of Punjab, (1986) 4 SCC 326).
6.	***"Dr. Swaroop Charan Sahu and Another v. The State of Madhya Pradesh (and connected petitions), M.Cr.C. No. 11773/2013"*** Para 48 - page 39 of impugned order	High Court of Madhya Pradesh (Jabalpur Bench) (Single Judge)	Independent police reporting (FIR) is completely excluded from the definition of a valid complaint, and police action cannot bypass the statutory channels.	"Same as above in S.No. 5"
7.	***"Suo Motu vs. State of Gujarat, (2008 SCC OnLine Guj 294)"*** Page 42 para 29 of impugned order	Gujarat High Court (Full bench)	Cognizance is limited strictly to a complaint. A court can only take legal notice of an offence if the action is brought forward through a complaint petition filed under one of the four categories specified in the Act.	The Act and its rules provide an intricate surveillance mechanism designed to prevent lapses. The power to set the court machinery in motion is restricted solely to the Central/State

				Governments, the Appropriate Authority, or their specially authorized delegates under Section 28 to preserve the regulatory scheme. *"This case does not directly address police FIR/investigation; it is cited only for its reaffirmation that cognizance under Section 28 is restricted to defined categories of complainants."*
8.	***"Mohammad Imtiyaz (Dr.) v. State of Rajasthan & Anr.,2022(4) RLW 2950"*** Para 10, 11, 13, 14 of the above	High Court Rajasthan Single Judge)	Police involvement is strictly prohibited; registering an FIR, conducting an investigation, and making an arrest are completely out of the question	1.Rule 18A(3)(iv) of the PCPNDT Rules explicitly mandates that the involvement of police must be kept to a minimum as cases are to be tried strictly as complaint cases. When the statutory text actively discourages police presence, an FIR or independent police investigation is legally invalid. 2.Sections 27 and 28 of the PCPNDT Act collectively outline a legal scheme that bars the interference of external authorities like the police, providing

				only a specific mechanism for courts to take cognizance through an Appropriate Authority's complaint.
9.	***"Dr. Vinod Kumar Bassi vs. The State of U.P. and Anr., 2024 SCC OnLine All 778"*** Page 5, 23, 74 | Para 8, 36, 85 of impugned order	Allahabad High Court (Single judge)	This judgment establishes a clear limit on permissibility by holding that the court has absolutely no jurisdiction to take cognizance of an offence under the Act except strictly on a complaint made by the validly authorized Appropriate Authority.	1.Because the Act explicitly restricts who can set the trial in motion under Section 28, a complaint initiated by an unauthorized officer (such as an Additional Chief Medical Officer who is neither the Appropriate Authority nor a validly authorized delegate) is legally incompetent. 2.If the initiating complaint itself is legally incompetent from its inception, the trial court is completely stripped of jurisdiction to take cognizance or issue summons against the applicant.

PROVISIONS OF LAW

4. The provisions of law, relevant for the present discussion are as under:

CrPC

Section 4

> *"4. Trial of offences under the Indian Penal Code and other laws.—(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt*

with according to the provisions hereinafter contained. (2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner of place of investigating, inquiring into, trying or otherwise dealing with such offences."

Section 5

5. Saving.—Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

Section 87

87. Issue of warrant in lieu of, or in addition to, summons.—A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest— (a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or (b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure

PCPNDT

Section 2

2. Definitions.- In this Act, unless the context otherwise requires,—
(a) "Appropriate Authority" means the Appropriate Authority appointed under section 17;

Section 17

17. Appropriate Authority and Advisory Committee.- 1. The Central Government shall appoint, by
notification in the Official Gazette, one or more Appropriate Authorities for each of the Union
territories for the purposes of this Act.
2. The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the

whole or part of the State for the purposes of this Act having regard to
the intensity of the problem of pre-natal sex determination leading to female foeticide.
3. The officers appointed as Appropriate Authorities under sub-section (1) or sub-section (2) shall be,—
(a) when appointed for the whole of the State or the Union territory, consisting of the following
three membersi) an officer of or above the rank of the Joint Director of Health and Family WelfareChairperson;
ii) an eminent woman representing women's organization; and
iii) an officer of Law Department of the State or the Union territory concerned:
Provided that it shall be the duty of the State or the Union territory concerned to constitute multimember State or Union territory level Appropriate Authority within three months of the coming into
force of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act,
2002:
Provided further that any vacancy occurring therein shall be filled within three months of that occurrence.
(b) when appointed for any part of the State or the Union territory, of such other rank as the
State Government or the Central Government, as the case may be, may deem fit.
4. The Appropriate Authority shall have the following functions, namely:—
(a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory
or Genetic Clinic;
(b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and
Genetic Clinic;
(c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder
and take immediate action;
(d) to seek and consider the advice of the Advisory Committee, constituted under sub-section
(5), on application for registration and on complaints for suspension or cancellation of registration;
(e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also to initiate independent investigations in such matter;
(f) to create public awareness against the practice of sex selection or pre-natal determination of sex;
(g) to supervise the implementation of the provisions of the Act and rules;

(h) to recommend to the CSB and State Boards modifications required in the rules in accordance with changes in technology or social conditions;
(i) to take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.
5. The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.
6 The Advisory Committee shall consist of—
(a) three medical experts from amongst gynaecologists, obstericians, paediatricians and medical geneticists;
(b) one legal expert;
(c) one officer to represent the department dealing with information and publicity of the State Government or the Union territory, as the case may be;
(d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organisations.
7. No person who has been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or sex selection shall be appointed as a member of the Advisory Committee.
8. The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advice thereon: Provided that the period intervening between any two meetings shall not exceed the prescribed period.
9. The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed."

Section 17A

"17A. Powers of Appropriate Authorities.- The Appropriate Authority shall have the powers in respect of the following matters, namely:-
a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
b) production of any document or material object relating to clause (a);

c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
d)any other matter which may be prescribed."

Section 27

"27. Offence to be cognizable, non-bailable and non-compoundable.-Every offence under this Act shall be cognizable, non-bailable and non-compoundable."

Section 28

28. Cognizance of offences.

"1. <u>No court shall take cognizance of an offence under this Act except on a complaint made by—</u>
<u>(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;</u> or
(b) a person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.
Explanation.—For the purpose of this clause, "person" includes <u>a social organisation</u>.
2. No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class
shall try any offence punishable under this Act.
3. Where a complaint has been made under clause (b) of subsection (1), the court may, on demand
by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person."

(emphasis supplied)

Section 30

"30. Power to search and seize records, etc. -

1. 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 with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or any other place 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 office punishable under this Act.
2. The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act."

Rule 18A(3) PCPNDT Rules 1996

"(3) <u>All the Appropriate Authorities including the State, District and Subdistrict notified under the Act, inter-alia, shall observe the following conduct for processing of complaint and investigation, namely-</u>
(i) maintain appropriate diaries in support of registration of each of the
complaint or case under the Act;
(ii) attend to all complaints and maintain transparency in the follow-up
action of the complaints;
(iii) investigate all the complaints within twenty-four hours of receipt of the complaint and complete the investigation within forty-eight hours of
receipt of such compliant;
(iv) as far as possible, not <u>involve police for investigating cases under the Act as the cases under the Act are tried as complaint cases under the Code of Criminal Procedure, 1973 (2 of 1974).</u>"

(emphasis supplied)

Object and Reasons

"Statement of Objects and Reasons. *- It is proposed to prohibit pre-natal diagnostic techniques for determination of sex of the <u>foetus leading to female foeticide. Such abuse of techniques is discriminatory against the female sex and affects the dignity and status of women. A legislation is required to regulate the use of such techniques and to provide deterrent punishment to stop such inhuman act.</u>*
2. The Bill, inter alia, provides for:-
(i) prohibition of the misuse of pre-natal diagnostic techniques for determination of sex of foetus, leading to female foeticide;
(ii) prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex;
(iii) permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders;
(iv) permitting the use of such techniques only under certain conditions by the registered institutions; and

> *(v) punishment for violation of the provisions of the proposed legislation.*
> *3. The Bill seeks to achieve the aforesaid objectives."*

(emphasis supplied)

SUBMISSIONS BY COUNSEL

5. Vide order dated 28th April, 2026, this Court had, considering the importance of the issues involved, appointed Ms. Mukta Gupta, learned senior counsel, through Mr. Nitin Saluja, learned Advocate-on-Record, as *amicus curiae* and also made it open for any member of the Bar to make submissions.

> "…
> 6. We keep it open for any member of the Bar to assist the Court. They may file written submissions on the email ID: writtensubmissions.hmjsk@gmail.com.
> 7. Registry to send a copy of this order to the President of SCBA for information and necessary action, along with digital copy of the paperbooks forthwith.
> …"

We have heard a number of senior counsels and counsels and have greatly benefited from their in-depth submissions. In this section, we record the same with the caveat that there is substantial overlap in the submissions made; however, for the sake of completeness, we record them in entirety.

Ms. Mukta Gupta, Senior Counsel

i. A combined reading of Sections 17, 17(4), 28 and Rule 18A(3)(iv) shows that the AA is the only authority entrusted with investigation, legal action, and the filing of the complaint. The police has no role to play qua the offences under this Act.

ii. The word with which Section 28 reproduced (supra) begins creates a complete mandatory and prohibitory jurisdictional bar against cognizance except on a complaint made by the AA. The AA can receive complaints only from a specified category of persons. A person appointed in an assistance capacity does not become an authorized person under this Section. [**State of Orissa v. Mamata Sahoo**[6]] Only an officer appointed or authorized by the AA can file a complaint along with the AA itself and an AO on behalf of Central/State Government.

iii. Rule 18A(3)(iv) expressly states that the police shall not be involved in investigating offences under this act "*as far as possible*".

iv. This Act, being a special law, the police can not derive their power to register an FIR or investigate from the CrPC simply because Section 27 thereof stipulates that the offences under this Act are cognizable. Section 30(2) further makes this position clear since it specifically provides for the provisions of the CrPC to apply to this Act only as far as searches and seizures are concerned.

v. Section 27 can not be read in isolation and in a manner so as to override Section 28.

vi. Section 30 of the Act requires the Authority to have only "*reason to believe*" that an offence is being committed. Only after examining the relevant material can this be so determined. This is different from the contents of the FIR, needing to disclose a cognizable offence.

vii. The intent of the Act is highlighted as being protected towards doctors. Excluding the police does not leave the authority of the AA unchecked since Rules and Regulations made under

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[6] 2019(7) SCC 486.

this Act have to be placed before the Parliament; the AA must act on the advice of the Advisory Committee; the Chairman of the AA cannot act unilaterally – all of these are built-in safeguards within the Act.

viii. The arrest of persons is not exclusively a function of the police. There are further situations possible – surrendering upon the orders of the Court, arrest by private persons, by public, by Magistrate.

ix. There are two tracks provided for in the CrPC, one is upon a police report and the other is by a complaint case. The way this Act is structured, it follows the complaint case route. The intent of making the offences non-bailable is only to ensure that the police do not have the authority to grant bail and the same is only with the Court. Arrest is not mandatory there are other modes by which an accused can enter the constructive custody of the Court and thereafter seek bail.

Mr. Pramod Kumar Dubey, Senior Counsel

i. The use of the word 'cognizable' cannot be read in isolation, in effect repealing the specialised enforcement mechanism given under the Act. It is only used to reflect the seriousness of the offence and the need for effective intervention. Section 27 of the Act can not override Section 28. It also cannot be read to confer supremacy to the police.

ii. Rule 18A(3)(iv) makes the position clear that police involvement is an exception and the noble enforcement of the Act is regulator-led.

iii. The offences, when registered under this Act, may, in certain circumstances it disclose independent of offences under the substantive criminal law, i.e., IPC or BNS; then the police can separately investigate the same without displacing the mechanism of this Act.

iv. Section 2(1) of the BNSS has defined the term 'investigation', and it recognises that when a special act is inconsistent with the provision of this general law, the former prevails. As such, the CrPC (now BNSS) cannot displace the specialised investigative functions of the AA.

v. Police can be involved to facilitate enforcement, i.e. for a limited purpose which itself is traceable to Section 225 of BNSS. There are no provisions in the Act that provide for supplementary or successive police investigation, and accordingly once cognizance of the complaint is taken by the AA under Section 28, the role of the police is limited, if at all.

vi. The language of Section 28 is prohibitory and jurisdictional. It has a filtering function. Cognizance can only be taken on a complaint under this Act, and therefore there is no possibility of cognizance upon a police report or chargesheet.

vii. References made to the Prevention of Food Adulteration Act, 1954 and specifically Section 20(1) thereof. Similar to the present matter, that section does not envisage further delegation of powers to any person other than persons so authorised. **[See: A.K.Roy and Ors. V. State of Punjab and Ors.[7]]**

viii. Proceedings under this Act are instituted on complaints made by the AA and not police cases. The powers given to the AA are

[7] MANU/SC/0156/1986

mentioned in Section 17A, and that does not contemplate arrest and since it is not contemplated, such powers cannot be delegated to the police. In other words, there is no power of arrest under this Act. Reference is made to ***Om Prakash Chhawnika v. State of Jharkhand***[8].

ix. Since Section 27 makes the offences non-bailable, with reference to ***Inder Mohan Goswami v. State of Uttaranchal***[9], it is submitted that the Magistrate can issue non-bailable warrants to secure the presence of the accused. The classification as non-bailable cannot, by implication, include the power of arrest and registration of FIR. It is submitted that the Standard Operating Guidelines issued by the Ministry of Health and Family Welfare support such a view since, while discussing the powers of the AA, there is no mention of police led-arrest.

Mr. Siddharth Aggarwal, Senior Counsel

i. PCPNDT Act does not specifically exclude the application of CrPC/BNSS. If such an exclusion had been provided, there would be no reason for this Court to consider such reference. Since it is not there, however, ordinarily the general procedural law would continue to apply.Reference was made to ***Moti Lal v. CBI***[10].

ii. Reference is made to Section 45(1)(A) of the Prevention of Money Laundering Act, 2002 which specifically excludes the powers of the police officers, on the one hand, and the Mines and Minerals (Development and Regulation) Act, 1957[11], the Official Secrets

[8] SLP (Crl.) No. 16221/2025

[9] (2007) 12 SCC 1

[10] (2002) 4 SCC 713

[11] MMDR

Act, 1923[12], on the other, where in the absence of express exclusion it has been held that the general powers under the procedural laws can continue, save and except the Court taking cognizance on the final report which can only be done when the competent authority makes a complaint.

iii. A third kind has also been put forth where the exclusion of police powers has been inferred despite absence of express exclusion viz. Transplantation of Human Organs and Tissues Act, 1994[13] and Drugs and Cosmetics Act, 1940[14].

iv. In conclusion, it is submitted that the scheme of this Act is similar to the TOHO Act and the DC Act and as such it can be read to be excluding the involvement of the police.

v. On the aspect of taking cognizance, in view of Section 28, the Magistrate is incompetent to act upon the receipt of a Police Report (chargesheet), as the Act provides an exclusive mechanism for triggering prosecution via a complaint.

Mr. Gyanendra Kumar, Senior Counsel

i. The use of the word cognizable in the Act has to be given full meaning. In a cognizable offence, the police can arrest without warrant and Section 175 of the BNSS (Section 156 of the CrPC) postulates that the police may undertake investigation without the order of the Court. He further submitted the following chart:

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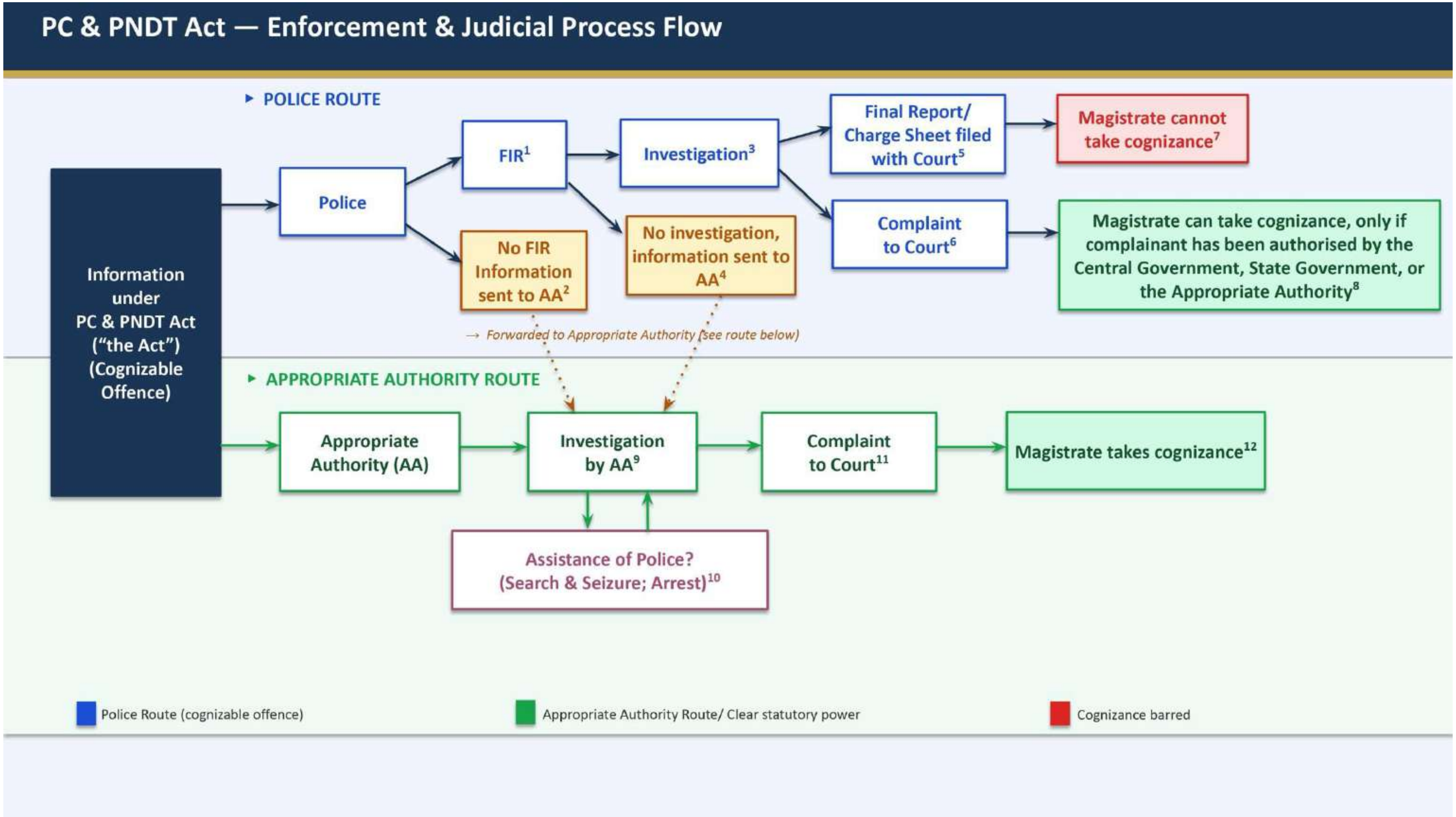
[12] OSA
[13] TOHO
[14] DC Act


PC & PNDT Act — Enforcement & Judicial Process Flow
POLICE ROUTE
Information under PC & PNDT Act ("the Act") (Cognizable Offence)
Police
FIR[1]
Investigation[3]
Final Report/ Charge Sheet filed with Court[5]
Magistrate cannot take cognizance[7]
Complaint to Court[6]
Magistrate can take cognizance, only if complainant has been authorised by the Central Government, State Government, or the Appropriate Authority[8]
No FIR Information sent to AA[2]
No investigation, information sent to AA[4]
→ Forwarded to Appropriate Authority (see route below)
APPROPRIATE AUTHORITY ROUTE
Appropriate Authority (AA)
Investigation by AA[9]
Complaint to Court[11]
Magistrate takes cognizance[12]
Assistance of Police? (Search & Seizure; Arrest)[10]
Police Route (cognizable offence)
Appropriate Authority Route/ Clear statutory power
Cognizance barred

Ms. Sakshi Arora, Counsel

i. The cognizable nature of the offence does not automatically confer upon the police unlimited power to register FIRs. When an FIR is registered and discloses offences under both the Act and the IPC/BNS, then the police can not be restricted from investigating the IPC offences.

ii. In view of the holding in ***Lalita Kumari v. Govt. of U.P.***[15]***,*** the police have a mandatory duty to record an FIR for a cognizable offence; as such, they can do so and then refer the part of the FIR that discloses offences under the Act to the AA to proceed as per the procedures given under the Act.

Mr. Harshit Sharma, Counsel

i. The police can conduct investigations in aiding the AA. Cognizance for the offences under this Act can be taken only as per the procedure mentioned in Section 28 of the Act. The police have two options – to transfer the Chargesheet in as much as it relates to the offences under this Act, to the AA or, file the same before the Magistrate with notice to the AA so that it may be treated as a complaint for the purpose of Section 28.

ii. Since there is no express exclusion of the CrPC/BNSS within the scheme of the statute, the power of the police to investigate has to be held to be permissible.

Mr. Vikalp Sharma, Counsel

i. Giving permission to the police to investigate in view of the word "cognizable" used under the Act, would dilute the

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[15] (2008) 14 SCC 337

authority of the AA creating parallel, potentially conflicting mechanisms, in effect rendering Section 28 of the Act nugatory.

ii. The interpretation of Section 27 has to be made harmoniously with Section 17, 28 and 30. A single word used therein can not replace the cumulative effect of all these other sections.

iii. The BNSS defines a complaint under Section 2(1)(h) and police report separately under Section 2(1)(y). Merely because the offences under this Act may appear alongside offences under the BNS, does not dilute the special nature of the Act.

iv. The offences mentioned dealt with under this Act are materially different from ordinary penal offences. Enforcement requires technical scrutiny, and as such, Section 17 provides a specialised regulatory structure supported by the Advisory Committees, etc.

Ms. Meera Kaura Patel, Counsel

i. There is no application of the BNSS/CrPC to the offences under this Act. The rules provide, under Rule 12, the procedure for search and seizure, and Rule 18A(3)(iii) & (iv) specifically empower the AA to investigate all complaints and not involve the police "*as far as possible,*" respectively.

ii. When an act or offence is provided under Section 26 of the Act, prosecution under identically worded provisions of the IPC/BNS are excluded.

Union of India

i. Section 28 of the Act provides that only the AA can initiate prosecution for the offences under the Act. That, in and of itself, does not exclude the police from conducting pre-cognizance investigation or investigating offences under the IPC/BNS.

ii. The correct interpretation of Section 28 is posited to be one that only restricts the Court's power to take cognizance subject to Rule 18A and the specialised scrutiny of the AA before a complaint under Section 28 is filed.

iii. This is because investigation and cognizance are distinct legal stages as recognised in ***H.N. Rishbud v. State of Delhi***[16]***, State of Haryana v. Bhajan Lal***[17]***.*** Further, it is well recognised that no provision of a legislation can be treated as surplus. Since Section 27 provides offences to be cognizable, non-bailable and non-compoundable, it necessarily contemplates police powers of registration of an FIR, investigation, arrest, search and seizure at the pre-cognizance stage.

iv. It is posited that if a bar is held, where the predicate acts disclose a violation of the Act, it would in effect confer "backdoor immunity" upon the offender for grave offences which is not a path that the law can envision. The dual investigation track has been endorsed by this Court in ***State (NCT of Delhi) v. Sanjay***[18]***.***

v. The use of the expression "as far as possible" is an indicator of directory language. Reliance is placed on observations made in ***Naresh Kumar Garg v. State of Haryana***[19]***,*** which has termed the language used in Rule 18A as directory.

vi. Offences under this Act involve deliberate, profit-driven misconduct that obviously would have the requisite *mens rea* and

[16] AIR 1955 SC 196
[17] 1992 Supp (1) SCC 335

[18] (2014) 9 SCC 772
[19] 2026 SCC OnLine SC 296

as such, neither the protection laid down in ***Jacob Mathew v. State of Punjab***[20] nor the safeguards of ***Lalita Kumari*** would apply here.

vii. Since procedural laws are not expressly displaced, they would continue to apply. The Act, under Section 28, expressly modifies only the aspect of cognizance.

Ministry of Health and Family Welfare

i. When there is no power of arrest provided in the Act and yet the offences therein are made 'non-bailable', aid of the police as per the provisions of the CrPC/BNSS should not be ruled out. Police assistance and delegation of powers is permissible in exceptional circumstances and is consistent with the scheme of the rules and the Act.

ii. The Act is oriented towards social welfare, and after the 2003 and 2014 amendments, section 28 only governs cognizance and nothing further. If section 28 is taken to empower investigation by police, it would render Section 27 ineffective.

iii. There are no express exclusion provisions of the CRPC. Further, Rule 18A (3)(iv) expressly contemplates police assistance during decoy operations. "As far as possible" is enabling, not restrictive, and encourages coordination rather than exclusion.

iv. An FIR may be registered on information being supplied by the AA, regarding an offence under the Act and the police may investigate accordingly, but the Magistrate can take cognizance only in terms of Section 28. When cognizance is taken, mistakenly, upon a police report, the proper course would be to

[20] (2005) 6 SCC 1

regularise the proceedings by directing that the same be treated the same like the complaint under Section 28 and not the entire proceedings. This is in keeping with the fact that inherent powers of the Court under Section 482 of the CrPC/528 of the BNSS have to be exercised sparingly.

ANALYSING THE PROVISIONS OF THE ACT

6. The questions referred to this bench primarily revolve around Sections 17, 27, 28, 30 of the Act and Rule 18A(3). Although we have reproduced them in a preceding section, let us first understand the scheme of the Act and then undertake an in-depth analysis of the provisions themselves.

6.1 Chapter 2 deals with the regulation of Genetic Counselling Centres, Genetic Laboratories and Clinics; Chapter 3 deals with regulation of prenatal diagnostic techniques; chapter 4 constitutes the Central supervisory Board, details the terms of office, procedure for its meetings, temporary association of certain members, appointment of officers and other employees and also disqualification from being appointed a member of the board; the board's functions among other things. Chapter 5 details the particulars of the appropriate authority and advisory committee, including, under Section 17A, detailing the powers of the AA. Chapter 6 deals with the registration of Genetic Counselling Centres, Laboratories and Clinics; Chapter 7 discusses the offences and penalties, including offences by companies. It further discusses the cognizance of offences, which is particularly relevant for our purposes. Chapter 8 is miscellaneous and provides for the powers to make rules and regulations; the powers for search and seizure; and the particulars for laying of the rules/regulations before Parliament.

6.2 With that overview, we now move to particular provisions of the PCPNDT Act. Section 17 provides that both the Central and State Governments shall appoint by notification one or more appropriate authorities. Such AA shall consist of an Officer not below the rank of a Joint Director of the Health and Family Welfare Department; and an eminent woman representing a woman's organisation and an officer of the law department. Section 17 (4), from subclause (a) to (i) discusses the functions of the AA, which importantly, include under sub-clause (c) the investigation of complaints of breach of the provisions of the Act or rules and taking of immediate action with regard to contravention of provisions of the Act; sub-clause (e) which requires them to take appropriate legal action against the use of any of the prohibited techniques under this Act along with initiating independent investigations.

6.3 Section 27 simply provides that every offence under this Act shall be cognizable, non-bailable and non-compoundable. It is the use of these words that was the subject matter of heavy discussions in the course of arguments. We will refer to the import of these words at a subsequent stage.

6.4 Section 28 prohibits taking of cognizance by a court except in two scenarios, (a) The AA or the AO of the Central, State Government or AA shall make the complaint to the Court; (b) on a complaint by any person, not less than fifteen days' notice to the AA of his intention to make the complaint.

6.5 Section 30 (1) authorises the AA to enter, search, examine records, seize and seal any place defined under this Act, such as Genetic Clinic or even any other place, with assistance as it considers necessary. Section 30 (2) specifies that CrPC shall apply to search and seizure.

6.6 Rule 18A(3) discusses the conduct to be followed by the AA upon receipt of complaints and conducting investigations. Sub-sub-clause (iii) requires that the AA shall investigate all complaints within 24 hours and complete such investigation within 48 hours. The next Sub-sub-clause (iv) states that the police shall not be involved in investigating the cases "*as far as possible*".

OUR VIEW

Precedents Of This Court

7. It appears that this Court has not had extensive engagement with this Act. However, it would be apposite to take note of the instances where it has.

7.1 In ***State of M.P. v. Manvinder Singh Gill***[21]***,*** the State mounted a challenge against the findings of the High Court, where proceedings had been set aside for the reason that the person instituting the matter, was not one mentioned in Section 28(1)(a) of the Act. It was observed by this Court that authority to file a complaint is restricted to specific categories, the concerned Appropriate Authority (AA) notified under Section 17(3), any officer authorized in that behalf by the Central or State Government, or any officer authorized in that behalf by the AA itself. Officers authorized merely to assist AA in monitoring implementation cannot be construed as "officers authorized in this behalf" for the purpose of filing a complaint.

[21] SLP (Crl.) No. 2226/2014 (Order dated 03.08.2015)

7.2 In ***State of Rajasthan v. Mohammad Imtiyaz***[22]***,*** it was observed that the High Court was correct in quashing proceedings initiated on the basis of an FIR since the same was impermissible.

7.3 In ***Ravinder Kumar v. State of Haryana***[23]***,*** this Court quashed a complaint by the AA and an FIR by the police on the ground that the search carried out at the clinic of the Appellant therein was illegal. This was in view of the fact that the Chairman of the AA had taken a unilateral decision to exercise powers under Section 30.

7.4 In ***Naresh Kumar Garg (Dr.) v. State of Haryana***[24]***,*** this Court observed, in regard to Rule 18A as follows:

> "55. … It is the contention of the appellant that such duality of role assigned to Dr. Saryu Sharma is illegal which not only vitiated the raid but also the decision to file the criminal complaint. Such a submission has no basis at all. Rule 18A lays down certain guidelines in the form of code of conduct to be observed by the appropriate authorities. As per Rule 18A(2)(ii), all appropriate authorities shall ensure that a person who is part of the investigating machinery in cases under the PCPNDT Act shall not be nominated or appointed as a member of the advisory committee. Thus, Rule 18A(2)(ii) is applicable only to a person who is part of the investigating machinery in cases under the PCPNDT Act. Dr. Saryu Sharma was never a part of any investigating machinery. Therefore, there is no contravention of Rule 18A(2)(ii) of the PCPNDT Rules. In any case, going by language of Rule 18A, those guidelines can only be termed as directory being part of the general code of conduct to be observed by appropriate authorities, violation of which may render a proceeding irregular but not illegal…"

8. From all these judgements it appears that the view of the Court has been consistent, Sections 27 and 28 do not confer power on the police, but granted the same has not been stated as an explicit position in law, let us proceed further.

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[22] SLP (Crl.) No. 103 of 2023 (Order dated 28.03.2025)
[23] 2024 SCC OnLine SC 2495
[24] 2026 SCC OnLine SC 295

Similar Provisions in Other Legislations

9. In the detailed submissions of the parties, extensive reference was made to provisions similar to the ones housed in the Act in other legislations. In effect, what was sought to be demonstrated was that the specialized enforcement mechanism adopted by the Act in the present case is not exceptional, but is present in many other legislations, keeping in view the nature of the particular legislation in question.

9.1 Transplantation of Human Organs and Tissues Act, 1994

> *"22. Cognizance of offences.—(1) No court shall take cognizance of an offence under this Act except*
> *on a complaint made by—*
> *(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the*
> *Central Government or the State Government or, as the case may be, the Appropriate Authority;*
> *or;*
> *(b) a person who has given notice of not less than sixty days, in such manner as may be*
> *prescribed, to the Appropriate Authority concerned, of the alleged offence and of his intention to*
> *make a complaint to the court.*
> *(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class*
> *shall try any offence punishable under this Act.*
> *(3) Where a complaint has been made under clause (b) of sub-section (1), the court may, on*
> *demand by such person, direct the Appropriate Authority to make available copies of the relevant*
> *records in its possession to such person."*

Section 22 of the TOHO Act was considered by this Court in ***Jeewan Kumar Raut & Anr. v. Central Bureau of Investigation***[25]***.*** The question involved in the case was regarding the applicability of Section 167(2) of the CrPC to offences under TOHO. Sub-section (2) of Section 167 deals with judicial remand and the power of a Magistrate to authorize

[25] (2009) 7 SCC 526

detention. Relevant paragraphs while concluding that the sub-section would not apply, are as follows:

> "**25.** Section 22 of TOHO prohibits taking of cognizance except on a complaint made by an appropriate authority or the person who had made a complaint earlier to it as laid down therein. The respondent, although, has all the powers of an investigating agency, it expressly has been statutorily prohibited from filing a police report. It could file a complaint petition only as an appropriate authority so as to comply with the requirements contained in Section 22 of TOHO. If by reason of the provisions of TOHO, filing of a police report by necessary implication is necessarily forbidden, the question of its submitting a report in terms of sub-section (2) of Section 173 of the Code did not and could not arise. In other words, if no police report could be filed, sub-section (2) of Section 167 of the Code was not attracted.
>
> **26.** It is a well-settled principle of law that if a special statute lays down procedures, the ones laid down under the general statutes shall not be followed. In a situation of this nature, the respondent could carry out investigations in exercise of its authorisation under Section 13(3)(*iv*) of TOHO. While doing so, it could exercise such powers which are otherwise vested in it. But, as it could not file a police report but a complaint petition only; sub-section (2) of Section 167 of the Code may not be applicable.
>
> **27.** The provisions of the Code, thus, for all intent and purport, would apply only to an extent till conflict arises between the provisions of the Code and TOHO and as soon as the area of conflict reaches, TOHO shall prevail over the Code. Ordinarily, thus, although in terms of the Code, the respondent upon completion of investigation and upon obtaining remand of the accused from time to time, was required to file a police report, it was precluded from doing so by reason of the provisions contained in Section 22 of TOHO.
>
> **28.** To put it differently, upon completion of the investigation, an authorised officer could only file a complaint and not a police report, as a specific bar has been created by Parliament. In that view of the matter, the police report being not a complaint and vice versa, it was obligatory on the part of the respondent to choose the said method invoking the jurisdiction of the Magistrate concerned for taking cognizance of the offence only in the manner laid down therein and not by any other mode. The procedure laid down in TOHO, thus, would permit the respondent to file a complaint and not a report which course of action could have been taken recourse

> to but for the special provisions contained in Section 22 of TOHO.
>
> **29.** It is one thing to say that the court could take recourse to the procedure laid down in Section 202 of the Code or even reject the complaint but then only because such a course of action could be resorted to by the learned Magistrate, the same, by itself, would <u>not lead us to a conclusion that the complaint petition should have been treated to be a police report; the logical corollary whereof would be to invoke the provisions of sub-section (2) of Section 167 of the Code.</u>"
>
> (emphasis supplied)

Similar to the present Act, the TOHO Act, also prohibits taking of cognizance except in accordance with the procedure prescribed under Section 22 thereof. It has been treated as a natural corollary that no question of applicability of Section 167(2) of the CrPC would arise if that is the case. CrPC would apply only to the extent that it is not inconsistent with the provisions given in the Special Law.

9.2 Drugs and Cosmetics Act, 1940

> "*32. Cognizance of offences—1*
>
> *[(1) No prosecution under this Chapter shall be instituted except*
>
> *by—*
>
> *(a) an Inspector; or*
>
> *(b) any gazetted officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government or a State Government or by a general or special order made in this behalf by that Government; or*
>
> *(c) the person aggrieved; or*
>
> *(d) a recognised consumer association whether such person is a member of that association or not.*
>
> *(2) Save as otherwise provided in this Act, no court inferior to that of a Court of Session shall try an offence punishable under this Chapter.]*
>
> *(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter."*

In ***Union of India v. Ashok Kumar Sharma***[26], the question before the Court was whether a First Information Report under section 154, CRPC could be registered and whether a Magistrate could take cognizance under section 190 thereof, insofar as the offences contained in the DC Act are concerned. After a detailed judgment, the conclusions of the Corded Bench, insofar as they are relatable to the question before this bench, are as follows:

> "**170.1.** In regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Act and also the scheme of CrPC, the police officer cannot prosecute offenders in regard to such offences. Only the persons mentioned in Section 32 are entitled to do the same.
>
> **170.2.** There is no bar to the police officer, however, to investigate and prosecute the person where he has committed an offence, as stated under Section 32(3) of the Act i.e. if he has committed any cognizable offence under any other law.
>
> **170.3.** Having regard to the scheme of CrPC and also the mandate of Section 32 of the Act and on a conspectus of powers which are available with the Drugs Inspector under the Act and also his duties, a police officer cannot register an FIR under Section 154CrPC, in regard to cognizable offences under Chapter IV of the Act and he cannot investigate such offences under the provisions of CrPC…"
>
> (emphasis supplied)

The above decision was relied on in ***Rakesh Kumar v. State of Bihar***[27].

9.3 Mines and Minerals (Development and Regulation) Act, 1957

> *"22. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person*

[26] *(2021) 12 SCC 674*
[27] (2024) 12 SCC 473

> *authorised in this behalf by the Central Government or the State Government."*

In ***Sanjay*** (supra) the Court was concerned with the question whether Sections 21 and 22 primarily of the MMDR Act barred prosecution of a person accused of offences under Section 379/114 IPC. The conclusion was in the negative. In paras 69, 70 and 72, the Court observed as follows:

> "69. Considering the principles of interpretation and the wordings used in Section 22, in our considered opinion, the provision is not a complete and absolute bar for taking action by the police for illegal and dishonestly committing theft of minerals including sand from the riverbed. …
>
> 70. .... In case of breach and violation of Section 4 and other provisions of the Act, the police officer cannot insist the Magistrate for taking cognizance under the Act on the basis of the record submitted by the police alleging contravention of the said Act. In other words, the prohibition contained in Section 22 of the Act against prosecution of a person except on a complaint made by the officer is attracted only when such person is sought to be prosecuted for contravention of Section 4 of the Act and not for any act or omission which constitutes an offence under the Penal Code.
>
> …
>
> 72. …Hence, merely because initiation of proceeding for commission of an offence under the MMDR Act on the basis of complaint cannot and shall not debar the police from taking action against persons for committing theft of sand and minerals in the manner mentioned above by exercising power under the Code of Criminal Procedure and submit a report before the Magistrate for taking cognizance against such persons…."
>
> (emphasis supplied)

The scope of the MMDR Act and the bar postulated thereunder is limited to the Act's proscribed therein. It would not restrict the police's power to prosecute offences that are not in connection with this Act.

9.4 Wildlife (Protection) Act, 1972

> "*55. Cognizance of offences.—<u>No court shall take cognizance of any offence against this Act on the complaint of any person other than</u>—*
>
> *(a) the Director of Wild Life Preservation or any other officer authorised in this behalf by the Central Government; or*
>
> *[(aa) the Member-Secretary, Central Zoo Authority in matters relating to violation of the provisions of Chapter IVA; or [(ab) Member-Secretary, Tiger Conservation Authority; or*
>
> *(ac) Director of the concerned tiger reserve; or]*
>
> *(b) the Chief Wild Life Warden, or any other officer authorised in this behalf by the State Government [subject to such conditions as may be specified by that Government]; or*
>
> *[(bb) the officer-in-charge of the zoo in respect of violation of provisions of section 38J; or]*
>
> *(c) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the State Government or the officer authorised as aforesaid.*"

In ***State of Bihar v. Murad Ali Khan[28],*** the appeal was regarding High Court's quashing of proceedings in the above referred legislation which is referred to as WPA where the respondent was accused of having shot and killed an elephant and removed their ivory tusks. While allowing the State's appeal, the Court through M.N. Venkatachaliah J. (as he was then) observed as follows:

> "13. What emerges from a perusal of these provisions is that cognizance of an offence under the "Act" can be taken by a court only on the complaint of the officer mentioned in Section 55. The person who lodged complaint dated 23-6-1986 claimed to be such an officer. In these circumstances even if the jurisdictional police purported to register a case for an alleged offence against the Act, <u>Section 210(1) would not be attracted having regard to the position that cognizance of such</u>

[28] (1988) 4 SCC 655

> an offence can only be taken on the complaint of the officer mentioned in that section. Even where a Magistrate takes cognizance of an offence instituted otherwise than on a police report and an investigation by the police is in progress in relation to same offence, the two cases do not lose their separate identity. The section seeks to obviate the anomalies that might arise from taking cognizance of the same offence more than once. But, where, as here, cognizance can be taken only in one way and that on the complaint of a particular statutory functionary, there is no scope or occasion for taking cognizance more than once and, accordingly, Section 210 has no role to play. The view taken by the High Court on the footing of Section 210 is unsupportable."

The conclusion drawn here is similar to that drawn under the MMDR Act. In so far as the offence given under the Act is in question, the police have no role to play.

9.5 UP Prohibition of Unlawful Conversion of Religion Act, 2021

> "*4. Any aggrieved person, his/her parents, brother, sister, or any other person who is related to him/her by blood, marriage or adoption may lodge a First Information Report of such conversion which contravenes the provisions of section 3.* "

In ***Rajendra Bihari Lal v. State of U.P.***[29]***,*** J.B. Pardiwala J., writing for the Court, while dealing with the question of whether an FIR could be registered for the offences under the UP Prohibition of Unlawful Conversion of Religion Act, 2021[30] referred to, ***Ashok Kumar Sharma*** (supra), and observed that, on a studied analysis of the Act in question, there was no reason to hold that Section 154 CrPC should be given primacy over Section 4 of the unamended version of the Act. It was held:

> "116. We are inclined to adopt the reasoning as assigned in Ashok Kumar Sharma (supra) as discussed above for the simple reason that the U.P. Conversion Act, being a special legislation, has prescribed certain special procedural norms as distinguished from the Cr.P.C. It is a settled position of law that the intention of the legislature should be construed from

[29] 2025 SCC OnLine SC 2265
[30] PUCRA

> the plain text of the statute, and if the plain interpretation does not result into any absurdity or is not unworkable, then the courts should not depart from the meaning which is manifest from the plain text. It is only in cases where the text does not speak for itself, or more than one interpretation is possible, that the courts should resort to tools of statutory interpretation. In the case in hand, the words employed by the legislature in the unamended Section 4 of the U.P. Conversion Act are abundantly indicative of the intent of the legislature to only allow a certain specified category of persons to make a complaint for the violation of Section 3 of the said Act. Thus, we find no good reason to take the view that despite being a special legislation, Section 154 of the Cr.P.C. should be given primacy over Section 4 of the U.P. Conversion Act. We are also not inclined to accept the submission of the learned AG that Section 4 is a mere declaration and not a contradiction from the general scheme of Section 154 of the Cr.P.C. for the simple reason that when the legislature has enacted special and more stringent provisions as regards other aspects covered by the said legislation, then a clause restricting the scope of initiation of prosecution under the same enactment cannot be casually construed as a mere surplusage. The specific declaration in Section 4 cannot be understood as a mere procedural nicety but has to be given its intended meaning to ensure that it fits in with the overall scheme of prosecution provided under the said legislation."
>
> (Emphasis supplied)

9.6 In summary, it can be stated with reference to the above judgments that TOHO, UPPCR and DCA contemplate a complete prohibition on police investigation and police report-based cognizance, whereas the MMDR and WPA restrict the powers of the police only in regard to the offences mentioned in the special law.

Crucial Aspects to be Considered

10. There are three main aspects that we must consider in answering the questions referred to us. **(1)** The phrasing employed in Section 27 and its interplay with Section 28 of the Act; (2) Whether the language of Rule 18A(3) would imply statutory force or is it merely directory; (3) What is the effect of the Act not having an express exclusion to the applicability of the CrPC/BNSS? All of these aspects require consideration under the overarching umbrella of the fact that the Act in question is a special statute and the Statement of Objects and Reasons for which such Act came to be enacted, which we have already reproduced (supra).

10.1 The principle that Special law overrides General Law is a position well understood. There can be no qualms with the position that the PCPNDT Act is a special law. CrPC or its new version, BNSS, 2023, is a procedural law. If the Act requires a particular procedure to be followed, the same alone has to be done so. In ***Parvinder Singh v. Enforcement Directorate***[31], (to which one of us, N Kotiswar Singh J. was a party), the Court considered Sections 4 & 5 of the BNSS, which were analogous to the prior legislation and are reproduced below, which provide that the procedure contained thereunder will not apply in as much as a particular legislation provides for a specified procedure. They read:

Section 4 of the BNSS

> "4. Trial of offences under Bharatiya Nyaya Sanhita, 2023 and other laws.— (1) All offences under the Bharatiya Nyaya Sanhita, 2023 shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

[31] 2026 SCC OnLine SC 903

> (2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."

Section 5 of the BNSS, 2023

> "5. Saving.— Nothing contained in this Sanhita shall, in the <u>absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force."</u>

(emphasis supplied)

In light thereof, let us consider one of the arguments put forth by the Learned Senior Counsel, Mr. Aggarwal, appearing in this matter, which was that since there is no express exclusion of the general procedural law, it would apply. But, since the reading of the provisions of the Act suggests otherwise, the conclusion was that it would not apply. Reference was made to ***Moti Lal v. Central Bureau of Investigation***[32]. In this case, it was held that the procedural provisions in the special law, insofar as they are inconsistent with the general procedural law, would prevail, but the remainder of the latter would continue to operate. However, we are of the view that the Act specifically provides the manner in which certain aspects of the execution of the Act are to take place. In the context of the specialised purpose of the Act, it has to be treated as such. It has also to be noted that where the legislature desired, they provided for the provisions of the CrPC to apply, i.e., regarding search and seizure under Section 30(2). Clearly, the intention of the legislature cannot as such be determined to be that those parts of the CrPC that are inconsistent with

[32] (2002) 4 SCC 713

the words of the statute, will not apply, but the rest of it, would. The 'reason to believe' standard, that is provided for in Section 30 (1), also has been applied specifically to the AA, indicating thereby that the AA is the one conducting the investigation. The reading of Section 28, put forth by the Union, in our view, cannot be accepted since it limits the effect of Section 28 only to cognizance. It is trite in law, however, that provisions cannot be read in isolation. Section 17 clearly provides that the power of investigation rests with the AA. The powers mentioned in furtherance thereof are given in Section 17A. Upon completion of investigation, the Court, upon receipt of a complaint by the AA, shall take cognizance; the loop is therefore completed.

10.2 The use of the words cognizable, non-bailable and non-compoundable within Section 27, as per the Union of India and others, has to be followed through, since it is trite in law that the legislature does not employ surplus words. We are of the considered view that the "dual-track" analogy drawn by the Union, so far as distinct offences in the IPC/BNS and the Act are concerned, none can dispute the same. In Sanjay (supra), it has been observed:

> **70.** There cannot be any dispute with regard to restrictions imposed under the MMDR Act and remedy provided therein. In any case, where there is a mining activity by any person in contravention of the provisions of Section 4 and other sections of the Act, the officer empowered and authorised under the Act shall exercise all the powers including making a complaint before the Jurisdictional Magistrate. It is also not in dispute that the Magistrate shall in such cases take cognizance on the basis of the complaint filed before it by a duly authorised officer. In case of breach and violation of Section 4 and other provisions of the Act, the police officer cannot insist the Magistrate for taking cognizance under the Act on the basis of the record submitted by the police alleging contravention of the said Act. In other

> words, the prohibition contained in Section 22 of the Act against prosecution of a person except on a complaint made by the officer is attracted only when such person is sought to be prosecuted for contravention of Section 4 of the Act and not for any act or omission which constitutes an offence under the Penal Code.

In our view, the procedure under this Act, cannot, in any circumstances, be taken to be restricting the function of the police in so far as offences in other laws are concerned. However, the special law in question restricts the use of particular techniques meant for untoward purposes such as sex-selection. It does not circumscribe the application of the substantive procedural law for other offences mentioned in the latter. As such, that conclusion in our view is a given. The difficulty arises because of the use of the word 'cognizable' on the one hand and on the other the specific intention of the legislature for offences under this Act to be treated as complaint cases. If the word 'cognizable' is taken to mean, as it is generally understood i.e., that the police can, without the permission of the Court concerned, undertake an investigation, it would, in our view, fall foul of the specialized provisions of the special statute. It has been argued by the Union of India that investigation and cognizance are distinct. That, of course, is the correct position. But however, as already extracted above, Section 17(4) declares the powers given to the AA, one of which is to investigate the complaints of the breach(s) of the provisions of this Act. Section 2(l) of the BNSS, also provides that when a particular aspect has been provided for in the special statute, the same has to prevail. Section 28, as observed, provides for the exclusive cognizance procedure. When the legislature has specifically provided for this, to give power to the Police, which is otherwise lacking in the requisite understanding and expertise when it comes to such an area involving medical and technical know-how, the power to investigate only because of one word, would be a stretch, and an impermissible one at that. It could also be argued that the non-bailable nature of the offences in this Act is also provided to restrict the power of the police to grant bail. That word does not enable the police to play any investigative role in the matter. The SOP of the concerned Ministry too do not envision a role for the police, except for providing limited, ancillary and necessary assistance to the AA.

10.3 One submission of the Union of India was that Section 28 of the Act only restricted the Court's power to take cognizance and nothing else. But the question that we put to ourselves is what would be the logical conclusion of the investigation carried out by the police? Once it undertakes an investigation, the police have two options available to it. One, is to file a closure report, if it finds that no offence is made out, or two, to file a chargesheet upon the completion of the investigation. A chargesheet obviously is filed before a Court. To what end though? The Court cannot take cognizance thereof due to the mandatory jurisdictional bar under Section 28, and, as such, the effort made by the police would result in being nugatory in the eyes of law. Can such an interpretation be countenanced in law? Certainly not. Regarding Section 28, we may further observe that it also provides for a 'person' to make a complaint, with notice to the AA of such complaint and of the intent to make a complaint before the court. So, it provides two methods for a complaint to be made under Section 28 (1) (a) & (b), and in both scenarios the AA is indispensable. Still further, it is provided in the Explanation to Section 28 that a 'person', within its meaning, includes a social organisation. The legislature has taken care to explain the meaning of a person as being inclusive of only a social organisation, and in all other scenarios a 'person' has to be understood in its general meaning. In other words, it may be that a police official, in his private capacity, can make a complaint to the court or to the AA by following the requisite procedure but the police as an institution have not been covered within the meaning of 'person'. Given that, outside its ordinary meaning, a person may include entities such as companies or individuals, but however in the Act, only social organisations have been expressly included within its meaning. We, therefore, find force in the submission that the language of Section 28 impacts jurisdiction and is prohibitory.

10.4 The rules enacted under Section 32 of the Act have to be laid before the Parliament under Section 34. The said Section, the way it is structured, has a negative laying procedure embedded within it. The rules come into force on the date that they are notified, but, remain subject to change as the wisdom of the legislature which they may deem fit. Post such change, actions taken under the Rules/Regulations as it stood prior to the change are protected. Since these rules, or the power to make the same, is provided within the Act itself, these Rules/Regulations shall have statutory force. [See: ***PEPSU RTC v. MJ. The Singh***[33]]. The holding in this case, albeit in the context of service law, records the general position. It says:

> **29.** … The regulations validly made under the statutory powers are binding and effective as the enactment of the competent legislature. The statutory bodies as well as general public are bound to comply with the terms and conditions laid down in the regulations as a legal compulsion. Any action or order in breach of the terms and conditions of the regulations shall amount to violation of the regulations which are in the

[33] (2011) 11 SCC 702

nature of statutory provisions and shall render such action or order illegal and invalid."

Consequently, Rule 18A (3)(iv), which states that "as far as possible" the police shall not be involved, has statutory force. It cannot be taken to be only indicative of a best-case scenario. Granted, it may be that the language leaves open some possibility of the involvement of the police, but this involvement cannot be there, unless AA so directs. We draw our conclusion, based on the decision rendered by a three-Judge Bench of this Court in ***State of M.P. v. Narmada Bachao Andolan***[34]. This phrase has been explained in Para 37 of the said judgment as follows:

"As far as possible

38. The aforesaid phrase provides for flexibility, clothing the authority concerned with powers to meet special situations where the normal process of resolution cannot flow smoothly. The aforesaid phrase can be interpreted as not being prohibitory in nature. The said words rather connote a discretion vested in the prescribed authority. It is thus discretion and not compulsion. There is no hard-and-fast rule in this regard as these words give a discretion to the authority concerned. Once the authority exercises its discretion, the court should not interfere with the said discretion/decision unless it is found to be palpably arbitrary. (Vide *Iridium India Telecom Ltd.* v. *Motorola Inc*. [(2005) 2 SCC 145 : AIR 2005 SC 514] and *High Court of Judicature for Rajastha tbe the n* v. *Veena Verma* [(2009) 14 SCC 734 : (2010) 1 SCC (L&S) 452 : AIR 2009 SC 2938] .) Thus, it is evident that this phrase simply means that the principles are to be observed unless it is not possible to follow the same in the particular circumstances of a case."

(emphasis supplied)

Consequently, it can be held that there is discretion in the hands of AA to involve the police as and when it is felt that their assistance is required. The police, when asked to assist, will be required to do so

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[34] (2011) 7 SCC 639

strictly in a supplemental or aiding capacity. If the powers of the police are contemplated to be wide, it would step over the perceived jurisdiction of the AA, diluting its powers and undermining the legislative intent.

There is yet another question which we must ask ourselves- what is the harm in largely excluding the police, or reducing their role, for the specific purposes of this Act, to a supplemental body? There are safeguards built into the Act. The Rules and Regulations of the Act receive the consideration of the Parliament, a decision by the AA cannot be the unilateral act of one of the members thereof. There is also the Advisory Committee to keep matters in check. Therefore, the AA is not an unregulated or unruly horse. There are sufficient checks and balances provided in the statute itself for fulfilling its objects and aims.

10.5 At this stage, we must consider the reliance on the judgment in ***Lalita Kumari (supra).*** At the cost of repetition, it may be stated that the reliance on this judgment is because it has been held therein that the police have a mandatory duty to register an FIR for a cognizable offence. The conclusions arrived at by the Constitution Bench are as under:

> "120. In view of the aforesaid discussion, we hold:
> 120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
> 120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
> 120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of

the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.
120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:
(a) Matrimonial disputes/family disputes
(b) Commercial offences
(c) Medical negligence cases
(d) Corruption cases
(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.
The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry."

If it is the attempt of the Union of India, Respondent No. 2, to further the case that the requirement of preliminary inquiries extends only to the scenarios mentioned in para 120.6 quoted above, we are afraid that it is a misreading thereof. The judges have themselves clarified that the scenarios mentioned therein are non-exhaustive. It is also stated therein that the preliminary inquiry is not to verify the veracity of the information received but to ascertain whether a cognizable offence is revealed; still further, it is stated that which type and in which cases a preliminary enquiry is to be conducted has to be decided in the facts and circumstances of each case. In our view, while it is true that the preliminary inquiry is only limited to analysing the information received for the presence therein, of a cognizable offence, the same cannot be read so restrictively that Section 27 of the Act can be taken to be the whole answer. It would also be within the scope of the preliminary enquiry to ascertain at the outset whether the police have the jurisdiction to conduct an investigation at all or not. It is only after this 'entry hurdle' is crossed would the question come up as to whether the information received discloses a cognizable offence or not. The necessary conclusion, in any scenario, insofar as it involves the offences under this Act, despite Section 27, would be the negative, since there is no power of police investigation to begin with as per the specialized regulatory regime.

10.6 There is another argument of the Union of India that none of the provisions of a statute are surplus and so, effect has to be given thereto, in full force. On the other hand, the learned *Amici* have submitted that there has to be harmonious construction of both the provisions. We are inclined to accept the position advanced by the Amici. If we accept the position advanced by the Union, the implied effect thereof is a restrictive reading of Section 28 which would be illogical, irrational and unjustified. It has to be noted, possibly by way of repetition, that Section 27 merely indicates the qualifications of the offences under this Act. However, Section 28 provides the mandatory and exclusive procedure for cognizance. To put it differently, while Section 27 dictates that the offences under this Act be cognizable, non-bailable and non-compoundable, whereas on the other hand, Section 28 clearly indicates the complaint case route. If these two scenarios are somewhat difficult to harmonise, then in such a scenario, it would be useful to refer to Principles of Statutory Interpretation by Justice G.P. Singh, 15th Edition, wherein it has been observed as follows:

> "If two sections of an Act cannot be reconciled, as there may be absolute contradictions, it is often said that the last must prevail. 45" But this should be accepted only in the last resort. As observed by Lord Evershed, MR,
>
>> It is no doubt true that if two sections of an Act of Parliament are in truth irreconcilable, so then prima facie the later will be preferred. But these are arguments of the last resort. The first duty of the court must be, if the result is fairly possible, to give effect to the whole expression of the parliamentary intention.
>
> ...
>
> In case of conflict between two sections of the same Act a more logical approach is indicated by Lord Herschell, LC,
> You have to try and reconcile them as best as you may. If you cannot, you have to determine which is the leading provision, and which the subordinate provision and which must give way to the other.
>
> ...
>
> In case of conflict between two sections of a statute which can not be reconciled, the Court must determine which the leading provision is, and which the subordinate provision is and which must give way to the other... "

The Privy Council in ***Salmon Plaintiff; And Duncombe And Others Defendants***.[35], observed:

> "It is, however, a very serious matter to hold that when the main object of a statute is clear, it shall be reduced to a nullity by the draftsman's unskilfulness or ignorance of law. It may be necessary for a Court of Justice to come to such a conclusion, but their Lordships hold that nothing can justify it except necessity or the absolute intractability of the language used. And they have set themselves to consider, first, whether any substantial doubt can be suggested as to the main object of the legislature; and, secondly, whether the last nine words of sect. 1 are so cogent and so limit the rest of the statute as to nullify its effect either entirely or in a very important particular."

[35] [L.R.] 11 App. Cas. 627

The Constitution Bench of this Court in ***Shamarao V. Parulekar v. DM, Thana***[36], observed as under :

> "10. ... Indeed, the law goes so far as to require the courts sometimes even to modify the grammatical and ordinary sense of the words if by doing so absurdity and inconsistency can be avoided. See the speech of Lord Wensleydale in Grey v. Pearson [Grey v. Pearson, (1857) 6 HLC 61 at p. 106 : 10 ER 1216] quoted with approval by the Privy Council in Pakala Narayana Swami v. Emperor [Pakala Narayana Swami v. Emperor, (1938-39) 66 IA 66 : AIR 1939 PC 47 : 1939 SCC OnLine PC 1] ; also Salmon v. Duncombe [Salmon v. Duncombe, (1886) 11 AC 627 at p. 634 (PC)] . The rule is also set out in the text books : see Maxwell on the Interpretation of Statutes, 9th Edn., p. 236 and Craies on Statute Law, 5th Edn., pp. 89 to 93. The meaning of Section 3 is quite plain and only desperate hair splitting can reduce it to an absurdity. Courts should not be astute to defeat the provisions of an Act whose meaning is, on the face of it, reasonably plain. Of course, this does not mean that an Act, or any part of it, can be recast. It must be possible to spell the meaning contended for out of the words actually used. We hold that there is no difficulty of construction."

Similar observations have been made by Arijit Pasayat J. in ***CIT v. Hindustan Bulk Carriers***[37]***,***

> "14. A construction which reduces the statute to a futility has to be avoided. A statute or any enacting provision therein must be so construed as to make it effective and operative on the principle expressed in the maxim ut res magis valeat quam pereat i.e. a liberal construction should be put upon written instruments, so as to uphold them, if possible, and carry into effect the intention of the parties. [See Broom's Legal Maxims (10th Edn.), p. 361, Craies on Statutes (7th Edn.), p. 95 and Maxwell on Statutes (11th Edn.), p. 221.]
>
> 15. A statute is designed to be workable and the interpretation thereof by a court should be to secure that object unless crucial omission or clear direction makes that end unattainable. (See Whitney v. IRC [1926 AC 37 : 10 Tax Cas 88 : 95 LJKB 165 : 134 LT 98 (HL)] , AC at p. 52 referred to in CIT v. S. Teja Singh [AIR 1959 SC 352 : (1959) 35 ITR 408] and Gursahai Saigal v. CIT [AIR 1963 SC 1062 : (1963) 48 ITR 1] .)

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[36] (1952) 2 SCC 1
[37] (2003) 3 SCC 57

16. The courts will have to reject that construction which will defeat the plain intention of the legislature even though there may be some inexactitude in the language used. (See Salmon v. Duncombe [(1886) 11 AC 627 : 55 LJPC 69 : 55 LT 446 (PC)] AC at p. 634, Curtis v. Stovin [(1889) 22 QBD 513 : 58 LJQB 174 : 60 LT 772 (CA)] referred to in S. Teja Singh case [AIR 1959 SC 352 : (1959) 35 ITR 408] .)
17. If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility, and should rather accept the bolder construction, based on the view that Parliament would legislate only for the purpose of bringing about an effective result. (See Nokes v. Doncaster Amalgamated Collieries [(1940) 3 All ER 549 : 1940 AC 1014 : 109 LJKB 865 : 163 LT 343 (HL)] referred to in Pye v. Minister for Lands for NSW [(1954) 3 All ER 514 : (1954) 1 WLR 1410 (PC)] .) The principles indicated in the said cases were reiterated by this Court in Mohan Kumar Singhania v. Union of India [1992 Supp (1) SCC 594 : 1992 SCC (L&S) 455 : (1992) 19 ATC 881 : AIR 1992 SC 1] ."

Three-Judge Bench of this Court in ***Vasant Ganpat Padave v. Anant Mahadev Sawant***[38] referred to the Golden Rule of Literal Interpretation in the following words :

"**26.** In *Grey* v. *Pearson* [*Grey* v. *Pearson*, [L.R.] 6 H.L. 61 : 10 ER 1216] , what is referred to as the golden rule of literal interpretation was stated as follows : (HL Cas p. 106)

"I have been long and deeply impressed with the wisdom of the rule, now, I believe, universally adopted, at least in the courts of law in Westminster Hall, that in construing wills and indeed statutes, and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, *unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no farther*. This is laid down by Burton, J., in a very excellent opinion, which is to be found in *Warburton* v. *Loveland* [*Warburton* v. *Loveland*, (1831) 2 Dow & Cl 480 : 6 ER 806] (see *ante*, p. 76. n.)."

(emphasis supplied)"

[38] (2019) 19 SCC 577

In ***Govt. of T.N. v. Park View Enterprises***[39], a co-ordinate Bench observed that where there is an irreconcilable conflict between two provisions of the same statute, the later provision shall prevail over the earlier one.

Hence, we cannot allow the words 'cognizable' and 'non-bailable' in Section 27 to water down the laudatory object of the statute, more so in view of the later provision i.e., Section 28.

10.7 The view taken by us above, that insofar as the offences under the Act are concerned, the AA is the only competent authority to conduct investigation and the police, if involved, can only be so in a supplemental capacity. In effect, there is a bar on the police being the investigator under this Act. This would be in line with the interpretation of other legislations referred to supra (such as the TOHO Act and the DCA). The requirement of the legislation being socially beneficial in nature and yet at the same time, there being a requirement to protect doctors from being harassed or intimidated, requires us to take this view. For the offences involving other Acts such as the IPC, obviously, there is no restriction on police power in place.

ANSWERING THE REFERENCE

11. Although we have extracted the questions referred to us in paragraph 2, for the sake of completion we may reproduce them here also.

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[39] (2001) 1 SCC 742

Question 1 – Whether, for offences under the PC & PNDT Act, the registration of FIR at the police station is permissible, merely because the offences under the PC & PNDT Act have been made cognizable and non-bailable?

Answer 1 – The language of the statute, more particularly Sections 27 and 28 of the Act when read together, in light of the other provisions and the socially beneficial nature of the Act as also the requirement of sensitivity along with medical and technical know-how, indicates that the police are not meant to be the investigators for the purpose of this Act. This is further made clear by the fact that an FIR once registered cannot be taken to its logical conclusion as per the procedures of this Act. The restriction applies only to offences under this Act and does not restrict the police's power to investigate or prosecute independent offences disclosed under substantive criminal law (IPC/BNS).

Question 2 – Whether the police investigation is permissible for the offences under the PC & PNDT Act? And who can investigate the complaints, received for violation of the provisions of the PC & PNDT Act?

Answer 2 - Section 17(4) of the Act, while describing the functions of the AA, clearly states that investigating the complaints is its responsibility. Rule 18A(3)(iv), which has statutory force, also requires that recourse to the police be avoided "*as far as possible*". It necessarily has to be concluded, therefore, that the police cannot be the main investigating authority. At best, the police may play a supplemental role, as and when required by the AA under its supervision.

Question 3 – Whether on the chargesheet submitted after the investigation by the police, the competent magistrate can take cognizance of the offence under the PC & PNDT Act?

Answer 3 – Section 28 of the Act envisions a complete statutory embargo on the taking of cognizance except in situations and scenarios provided thereunder. The answer has to be clear. The competent Magistrate shall not be able to take cognizance upon the filing of a chargesheet.

12. The reference is answered accordingly. The matter is remanded to the High Court to take a decision in accordance with this judgment.

13. The appeal is disposed of, along with pending application(s), if any.

……………………………………………….J.
(SANJAY KAROL)

………………………………………………..J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
AUGUST 20, 2026

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION)

CRIMINAL APPEAL NO. 2938 OF 2025

THE STATE OF UTTAR PRADESH & ANR. ...APPELLANT(S)

VERSUS

DR. BRIJ PAL SINGH & ANR. ...RESPONDENT(S)

J U D G M E N T

NONGMEIKAPAM KOTISWAR SINGH, J.

1. I have had the benefit of reading the principal judgment authored by my learned Brother Sanjay Karol, J. I respectfully concur with the reasoning and conclusions recorded therein. Though the questions referred to this Court have been clearly answered in the principal judgment by delineating the respective roles of the Appropriate Authority ("AA") and the police under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 ("PC & PNDT Act"), situations may nevertheless arise where offences under the PC & PNDT Act and offences under the IPC/BNS or other general penal law may emanate from the same, connected or related transaction. In such a situation, both the AA and the police may possess their distinct competence to investigate, within their respective statutory fields. Keeping in view such situations, which are likely to arise in practice in the light of the issues dealt in the principal judgment, I consider it necessary to make the following clarificatory observations on the interface between those two distinct investigative agencies.

2. The same, single connected transaction may consequently result in two parallel procedural tracks, one under the PC & PNDT component, which may culminate in a complaint in the manner contemplated by Section 28 of the Act, while an independently constituted IPC/BNS offence may trigger police investigation. The existence of a common factual transaction does not merge the above distinct statutory routes and procedures under the respective statutes.

The AA investigates the offence under the PC & PNDT Act, and the police participation in that investigation is only supplemental and when specifically required by the AA.

Conversely, an independently constituted IPC/BNS offence arising from the same or connected occurrence remains within ordinary police jurisdiction where there is no statutory role of the AA. The question here is how those distinct jurisdictions are to operate when the underlying facts overlap arising out of connected incidents forming the same transaction.

3. The statutory allocation under the PC & PNDT Act is sufficiently clear when its provisions are read together. Section 17(4) of the PC & PNDT Act does not treat the AA as a mere complainant who enters the picture only at the stage of cognizance, but it expressly places investigation and other attendant legal actions in its hands. Section 17A of the PC & PNDT Act equips AA with powers directed to collection of information and material. The relevant clauses read:

> **<u>Section 17(4) of the PC & PNDT Act:</u>**
>
> *'The Appropriate Authority shall have the following functions, namely:-*
> *...*
> *(c)* ***to investigate complaints of breach*** *of the provisions of this Act or the rules made thereunder and take immediate action; ...*
> *(e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also* ***to initiate independent investigations*** *in such matter.'*
>
> **<u>Section 17A of the PC & PNDT Act:</u>**
>
> '*The Appropriate Authority shall have the powers in respect of the following matters, namely:-*

*(a) **summoning of any person** who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;*

*(b) **production of any document or material object** relating to clause (a);*

*(c) **issuing search warrant** for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and*

(d) any other matter which may be prescribed.'

(emphasis supplied).

4. Sections 27, 28 and 30 of the PC & PNDT Act makes the above statutory architecture clearer. Section 27 classifies every offence under the Act as cognizable, non-bailable and non-compoundable, and Section 28 prescribes the controlled complaint route for cognizance, thereafter Section 30 places the special search-and-seizure power in the AA or an officer authorised by it, while allowing the Authority to obtain assistance when necessary. This may also include the assistance of the police. However, there is a cautioning provision, that is, the Rule 18A(3)(iv) of PC & PNDT Rules, 1996, which requires the AA, '*as far as possible*', not to involve police in investigating cases under the Act. It is also pertinent to note that the PC & PNDT Rules, 1996 were also laid before the Parliament and the rules have statutory force as held in the principal judgment. The relevant statutory extracts are as follows:

<u>Section 27 of the PC & PNDT Act:</u>

'Every offence under this Act shall be cognizable, non-bailable and non-compoundable.'

<u>Section 28(1) of the PC & PNDT Act:</u>

*'**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; or

(b) a person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.'

<u>Section 30(1) of the PC & PNDT Act:</u>

*'**If the Appropriate Authority has reason to believe** that an offence under this Act has been or is being committed ... such Authority or any officer authorised thereof in this behalf may ... enter and search ... **with such assistance, if any, as such authority or officer considers necessary** ... 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.'*

<u>Rule 18A(3)(iv) of the PC & PNDT Rules, 1996</u>

*'**as far as possible, not involve police for investigating cases under the Act** as the cases under the Act are tried as complaint cases under the Code of Criminal Procedure, 1973 (2 of 1974)'.*

(emphasis supplied).

5. The expression '*assistance*' in Section 30(1) of the PC & PNDT Act is significant. It enables the PC & PNDT Act to get the police aid when genuinely required in instances like protection, tracing the accused, other digital or forensic support, preservation of a scene, or any in other situation where the AA may feel necessary. But such assistance cannot have the effect of eclipsing the role of the AA to investigate. The decision to entertain complaints regarding PC & PNDT offense, its investigation, to exercise the special statutory powers, to assess the forms and medical/technical material, and ultimately to decide whether the statutory complaint should be instituted remains with the competent AA. This is the line which the principal judgment draws, and the following closest special-statute precedents show how it should operate when another offence arises from the same set of facts constituting the same transaction.

6. The first useful similar illustration is ***Jeewan Kumar Raut v. Central Bureau of Investigation, (2009) 7 SCC 526,*** under the Transplantation of Human Organs and Tissues Act, 1994 ('TOHO Act'). Significantly, in the said case, the FIR disclosed both offences under the special health enactment and offences under the IPC. It was held that the local police officer was not authorised to investigate the TOHO component, and that component was therefore required to move to the authorised agency. Paragraphs 21 to 23 of the said judgment would elucidate:

> "**21.** *… The FIR lodged before the officer incharge of the Gurgaon Police Station was by way of information.* ***It disclosed not only commission of an offence under TOHO but also under various provisions of the Indian Penal Code.*** *The officer incharge of the Police Station, however, was not authorized by the appropriate government to deal with the matter in relation to*

> *TOHO; but, the respondent was. In that view of the matter, the investigation of the said complaint was handed over to it.*
>
> **22.** *TOHO being a special statute, Section 4 of the Code, which ordinarily would be applicable for investigation into a cognizable offence or the other provisions, may not be applicable. ...*
>
> **23.** *TOHO being a special Act and the matter relating to dealing with offences thereunder having been regulated by reason of the provisions thereof, there cannot be any manner of doubt whatsoever that the same shall prevail over the provisions of the Code. The investigation in terms of Section 13(3)(iv) of TOHO, thus,* ***must be conducted by an authorized officer. Nobody else could do it.*** *For the aforementioned reasons, the officer incharge of the Gurgaon Police Station had no other option but to* ***hand over the investigation to the appropriate authority****."*

(emphasis supplied)

7. ***Jeewan Kumar Raut*** (supra) demonstrates the proper response to mixed information where the police are not required to ignore an IPC/BNS offence which they are otherwise competent to investigate, but the presence of that offence does not permit them to incorporate the offence under the Special Act.

Accordingly, the PC & PNDT aspect must move to the AA and the general penal aspect will remain with the police. In this manner, both the authorities preserve their both distinct jurisdictions rather than encroaching upon each other's jurisdiction.

8. A still closer analogy is found in the ***Union of India v. Ashok Kumar Sharma, (2021) 12 SCC 674***, concerning the Drugs and Cosmetics Act, 1940. There, notwithstanding the cognizable character of the special-law offences, the Court held that the specialised statutory machinery displaced ordinary police FIR/investigation for those offences, while expressly preserving police jurisdiction over a cognizable offence under another law. The conclusions most relevant therein are reproduced hereunder:

> "**170.1.** *In regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Act and also the scheme of CrPC, the police officer cannot prosecute offenders in regard to such offences. Only the persons mentioned in Section 32 are entitled to do the same.*
>
> **170.2.** ***There is no bar to the police officer, however, to investigate and prosecute*** *the person where he has committed an offence, as stated under Section 32(3) of the Act i.e. if he has committed* ***any cognizable offence under any other law****.*
>
> **170.3.** *Having regard to the scheme of CrPC and also the mandate of Section 32 of the Act and on a conspectus of powers which are available with the Drugs Inspector under the Act and also his duties,* ***a police officer cannot register an FIR*** *under Section 154 CrPC, in regard to cognizable offences under Chapter IV of the Act and* ***he cannot investigate such offences*** *under the provisions of CrPC.*
>
> *...*
>
> **170.5**. *It would appear that on the understanding that the police officer can register an FIR, there are many cases where FIRs have been registered in regard to cognizable offences falling under Chapter IV of the Act. ... we direct that* ***they should be made over to the Drugs Inspector****, if not already made over, and it is for the Drugs Inspector to take action on the same in accordance with the law."*

(emphasis supplied).

9. The precedential value of ***Ashok Kumar Sharma*** (supra) for the purpose of the present case is twofold. First, '*cognizable*' does not by itself transfer a specialist statutory investigation to the ordinary police. Secondly, exclusion from the special offence does not disable the police from investigating a distinct cognizable offence under another law, even if these offences arise out of the same transaction. The direction in above paragraph 170.5 in ***Ashok Kumar Sharma*** (supra) is equally instructive, where it directs that the information which has reached the police need not be discarded, but it may be transmitted to the competent special authority under the Special Act.

10. A similar issue was adjudicated by this Court in ***State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772***. The same transaction of removal of minerals could amount to a contravention under the MMDR Act and, on additional ingredients, theft under the IPC. The Court therefore distinguished the offences by their legal ingredients rather than by the physical unity of the transaction. Paragraphs 70 and 72 of the concerned judgment are instructive:

> "**70.** *... In case of breach and violation of Section 4 and other provisions of the Act, the police officer cannot insist the Magistrate for taking cognizance under the Act on the basis of the record submitted by the police alleging contravention of the said Act. In other words, the prohibition contained in Section 22 of the Act against prosecution of a person except on a complaint made by the officer is attracted only when such person is sought to be prosecuted for contravention of Section 4 of the Act and* ***not for any act or omission which constitutes an offence under the Penal Code****.*
>
> **72.** *... merely because initiation of proceeding for commission of an offence under the MMDR Act on the basis of complaint* ***cannot***

> ***and shall not debar the police from taking action*** *against persons for committing theft of sand and minerals ... by exercising power under the Code of Criminal Procedure and submit a report before the Magistrate for taking cognizance against such persons....'*

(emphasis supplied).

11. The principle from ***Sanjay*** (supra) must be applied with care, because it does not mean that the police may investigate the PC & PNDT offence whenever a general penal provision is also cited, but the practical inquiry is into, understand the pith and substance of the allegation, tested by the ingredients of the offences.

If the offence is only sex determination, communication of fetal sex, prohibited use of the diagnostic technique, or another offence which clearly falls within the scope of PC & PNDT Act, the police must keep their hands off that investigation unless the AA seeks their assistance. Conversely, if a deliberate medical act independently causes death, homicide, foeticide, or such other connected offences, and the facts satisfy the ingredients in the general penal law offence, the police may investigate those offences. What they cannot do is use the general offence as a gateway to take over the PC & PNDT inquiry and equally, the Special Act cannot operate as a shield against investigation of a genuinely distinct IPC/BNS offence.

12. Once this distinction is clear, coordination must necessarily ensue and be reciprocal. If the AA encounters the fact/ material which reasonably discloses an independent IPC/BNS offence, it may communicate the information and relevant material to the jurisdictional police, who will act upon and investigate that offence according to law. Conversely, if the police, while lawfully investigating a general offence, encounters material indicating a possible PC & PNDT violation, they should promptly place that component before the notified AA to facilitate the AA to invoke its statutory powers. However, until assistance is sought by the AA, the police do not acquire jurisdiction to investigate the PC & PNDT component merely because it arises in the same transaction.

Therefore, the two agencies may assist each other without crossing the statutory line, where, for the IPC/BNS investigation, the police may seek from the AA its inspection findings, statutory forms, registration or seizure records, technical opinion and other lawfully available material relevant to the general offence, whereas the AA may seek police assistance, protection, tracing, preservation, digital or forensic support, or other ancillary assistance necessary for an effective PC & PNDT investigation.

13. Accordingly, as a sequel to the conclusions in the principal judgment, the following are to be kept in mind by the AA & Police Authorities while exercising their respective jurisdictions under PC & PNDT Act or Penal Statutes like IPC/ BNS, where the offending transactions may have both the components falling under the PC & PNDT Act and IPC/ BNS or any other statute:

13.1. Where information received by a police station, on its reasonable reading, discloses only a contravention of the PC & PNDT Act or Rules, the police shall make appropriate station/diary entry and transmit the information and accompanying material without avoidable delay to the notified AA. The police shall not commence an independent investigation of the PC & PNDT offence. The AA shall thereafter act under the applicable provisions of the PC & PNDT Act.

13.2. Where the same information also discloses the ingredients of an independently constituted cognizable IPC/BNS offence or offence under another general penal law, the police may register and investigate that distinct offence in accordance with law without touching upon the PC & PNDT component. The PC &

PNDT component shall simultaneously be communicated to the AA. The mere fact that the same facts, persons, premises or records overlap shall not authorise police to investigate the PC & PNDT offence itself.

13.3. If, during a lawful investigation of an IPC/BNS offence, material reasonably indicates a possible contravention of the PC & PNDT Act, the investigating officer shall promptly notify the AA and place the relevant information/material before it. The AA shall decide whether and how to invoke its statutory powers. The police may continue their independent IPC/BNS investigation only in respect of the component involving IPC/BNS offences and may assist the AA only when such assistance is sought by the AA.

13.4. If the AA, while acting under the PC & PNDT Act, comes across material disclosing a distinct IPC/BNS offence, it shall promptly communicate the information and relevant material to the jurisdictional police without venturing into that arena. Such communication shall not interrupt or transfer the AA's PC & PNDT investigation. On being communicated, the police shall independently determine the course required by the general criminal law.

13.5. Any police assistance in the PC & PNDT investigation shall ordinarily arise from a specific request from the AA, and shall remain supplemental to the AA-led investigation. The police shall not venture into the domain of the AA unless specifically requested by the AA. The nature and purpose of substantial police assistance should be recorded by the AA in its file and, where appropriate, by the police in the relevant diary as the statutory mandate is not to involve the police in the investigation, as far as possible. Thus, the AA cannot abdicate its functions, which essentially fall upon it, on the pretext of seeking assistance from the police. The statute contemplates only a minimal role for the police in investigations relating to the PC & PNDT Act. It also goes without saying that such assistance rendered by the Police to the AA shall never be converted into independent police investigation into the

PC & PNDT case or culminate into the police chargesheet.

13.6. In an IPC/BNS investigation arising from the same medical transaction, the police may seek from the AA inspection findings, statutory forms, registration records, seizure records, technical opinion or other material lawfully available with it. Likewise, the AA may seek lawful forensic, digital, logistical or protective assistance from police without surrendering its statutory decision-making responsibility.

13.7. Neither agency shall assume a power merely because the other offence arises from the same transaction. The controlling question is whether the ingredients of the offence being investigated and the statutory source of investigative power place that subject within the agency's lawful field. Doubt as to a possible PC & PNDT contravention should be resolved by prompt reference to the AA rather than by police assumption of the special investigation, as the AA has been given the exclusive authority under the Act to investigate. The AA, because of the specialised nature of its composition, will be in a better position to ascertain whether such an offence is covered by the PC & PNDT Act.

14. With the above supplementary observations, I respectfully concur with the judgment authored by my learned Brother Sanjay Karol, J.

……………………………………………………J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
AUGUST 20, 2026.