



CGHC010303782026



2026:CGHC:35158-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 2103 of 2026**

Ku. Neha D/o. Mewalal Murya Aged About 34 Years R/o. Village Khaira,
(Jairam Nagar), P.S. Masturi, Tahsil Masturi, Distt. Bilaspur,
Chhattisgarh

... Petitioner(s)**versus**

1. State of Chhattisgarh, Through Police Station Tarbahar, District Bilaspur, C.G.
2. Kishore Jambulkar R/o Sanjay Nagar, Talapara, Police Station Civil Lines, District Bilaspur, C.G.

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Pradeep Rajgir, Advocate.
For Respondent/State	:	Mr. Ashish Shukla, Additional Advocate General.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Order on Board****Per Ramesh Sinha, Chief Justice****11.08.2026**

1. Heard Mr. Pradeep Rajgir, learned counsel for the petitioner. Also heard Mr. Ashish Shukla, learned Additional Advocate General, appearing for the State/respondent No. 1.

2. Although the present petition was listed today for admission, with the consent of the learned counsel appearing for the respective parties, it was taken up for final hearing and is being finally disposed of at the admission stage itself.

3. The present petition has been filed by the petitioner with the following prayers:

“1. It is respectfully prayed that the entire records pertaining to the case of the petitioner may kindly be called from the Court of Judicial Magistrate, 1st Class, Bilaspur.

2. It is respectfully prayed before this Hon’ble Court that the First Information Report bearing Crime No. 5 of 2017, registered at Police Station Tarbahar, District Bilaspur and Criminal Case No. 373 of 2017 pending before the Court of Judicial Magistrate, 1st Class, Bilaspur, District Bilaspur may kindly be set aside against the present petitioner.

3. Any other relief/relief’s which this Hon’ble Court may think fit and proper in the facts and circumstances of the case with cost of the petition may also please be granted to the petitioner.”

4. Learned counsel for the petitioner submits that the present prosecution arises out of the death of the wife of respondent No.2, namely Smt. Payal Jambulkar, who died on 14.04.2016. After a considerable lapse of time, a complaint was lodged alleging that her death had occurred on account of medical negligence. Pursuant thereto, an offence under Section 304-A read with Section 34 of the IPC

was registered against four persons, including the present petitioner, who was working as an Assistant Nurse, along with Dr. S.G. Ghatke, Dr. Shweta Sablani (Mishra) and Abhay Kumar Yadav, a Laboratory Technician.

5. It is further submitted by the learned counsel for the petitioner that during investigation an allegation was raised regarding transfusion of wrong blood to the deceased and an expert opinion was obtained from CIMS. However, the report of the expert committee was not conclusive and did not specifically attribute any gross negligence to the present petitioner. It is further pointed out that no postmortem examination was conducted and the complaint itself was lodged after a substantial delay. The petitioner contends that the material collected during investigation does not establish that she acted rashly or negligently, much less with the degree of gross negligence required for criminal prosecution of a medical professional. He further contended that on the date of the incident, at about 11:30 p.m., respondent No.2 brought two units of blood and informed her that the same had been directed to be transfused by the doctors. The duty doctor also instructed the petitioner to administer the blood. Acting upon such medical instructions, the petitioner transfused the blood. It is submitted that before issuance of the blood units, the requisite cross-matching procedure had been undertaken and the blood was found compatible with the blood of the deceased. The alleged error was attributable to the blood bank personnel, who had incorrectly mentioned the blood group on the blood bag, whereas the donor's blood group and that of the deceased were

both stated to be O positive.

6. Learned counsel for the petitioner would submit that there is no material in the charge-sheet establishing that the death of the deceased was in fact caused by mismatch of blood. If the expert committee was of the opinion that wrong blood had been transfused, the same ought to have been scientifically established by appropriate testing and cross-matching of the blood of the deceased with the blood contained in the transfused bag. It is also contended that the deceased did not exhibit any immediate signs or symptoms suggestive of a transfusion reaction, and therefore the mere allegation of wrong transfusion cannot, by itself, establish criminal negligence on the part of the petitioner. Emphasis is also placed upon the settled principles governing prosecution of medical professionals for criminal negligence. Relying upon the judgment of the Hon'ble Supreme Court in ***Jacob Mathew v. State of Punjab & Another***, reported in **(2005) 6 SCC 1**, it is submitted that criminal negligence must be of a gross or very high degree and that mere error of judgment or an act which may constitute negligence in civil law would not automatically amount to criminal negligence. A medical professional is required to be judged by the standard of an ordinarily competent practitioner possessing reasonable skill and competence, and not by the standard of the highest degree of professional expertise.

7. It is further stated by the learned counsel for the petitioner that the principle of *res ipsa loquitur* has limited application in criminal proceedings and cannot, by itself, be invoked to establish criminal

negligence. In matters concerning diagnosis and treatment, differences of opinion and the choice between alternative medically acceptable courses of action cannot, without more, constitute negligence. In the present case, there is no specific medical opinion demonstrating that the petitioner had acted in a manner which no ordinarily prudent medical professional would have adopted in the circumstances.

8. Lastly, learned counsel submits that the petitioner is also entitled to the benefit of parity. The criminal proceedings arising out of the same incident against the co-accused doctors have already been quashed by this Court, namely, in the case of Dr. Shweta Sablani Mishra by order dated 29.09.2023 passed in CRMP No. 908/2017 and in the case of Dr. S.G. Ghatke by order dated 09.02.2026. Since the allegations against the petitioner arise out of the same occurrence and the material against her does not disclose any higher or independent degree of negligence, continuation of the criminal proceedings against her would amount to an abuse of the process of law. On these submissions, it is prayed that the charge-sheet and the consequential criminal proceedings arising out of Crime No. 373/2017 be quashed.

9. *Per contra*, learned State counsel opposed the petition and submitted that the material collected during investigation, including the expert opinion, prima facie discloses negligence on the part of the petitioner. It is contended that the issues raised by the petitioner relate to appreciation of evidence and cannot be examined in exercise of the limited jurisdiction under Section 528 of the BNSS. It is, therefore,

submitted that the petition deserves to be dismissed.

10. We have heard learned counsel for the parties and perused the material available on record.

11. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C. (now Section 528 of the BNSS).

12. The Hon'ble Supreme Court in the matters of ***Rupan Deol Bajaj v. K.P.S. Gill*** reported in ***(1995) SCC (Cri) 1059***, ***Rajesh Bajaj v. State of NCT of Delhi*** reported in ***(1999) 3 SCC 259*** and ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E Ltd. & Ors*** reported in ***2000 SCC (Cri) 615***, the Supreme Court clearly held that if a prima facie case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there

is no controversy about the legal proposition that in case a prima facie case is made out, the FIR or the proceedings in consequence thereof cannot be quashed.

13. In *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 SCC OnLine SC 315*, the Hon'ble Supreme Court has authoritatively settled the scope of the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the BNSS). The Hon'ble Apex Court has held that the power to quash criminal proceedings is required to be exercised sparingly, with circumspection and only in the rarest of rare cases. It has been categorically observed that while considering a prayer for quashing an FIR or criminal proceedings, the High Court cannot embark upon an enquiry into the reliability, genuineness or otherwise of the allegations contained in the FIR, nor can it appreciate the evidence or conduct a mini trial. The Court is only required to examine whether the allegations, if taken at their face value, disclose the commission of a cognizable offence. The Supreme Court further emphasized that criminal proceedings ought not to be scuttled at the threshold, that investigation into cognizable offences should ordinarily be permitted to proceed unhindered, and that the extraordinary jurisdiction under Section 482 Cr.P.C. must be exercised with great caution and self-restraint, save in exceptional cases where non-interference would result in manifest miscarriage of justice.

14. Very recently, in *Pradeep Kumar Kesharwani v. State of Uttar*

Pradesh & Another (Criminal Appeal No. 3831 of 2025, decided on 02.09.2025), the Hon'ble Supreme Court reiterated the aforesaid principles and further held that while exercising jurisdiction under Section 482 Cr.P.C. (now Section 528 of the BNSS), the High Court cannot adjudicate disputed questions of fact or evaluate the evidentiary worth of the material collected during investigation. The Court reaffirmed the test laid down in *Rajiv Thapar v. Madan Lal Kapoor* and observed that criminal proceedings can be quashed at the threshold only when the material relied upon by the accused is of sterling and impeccable quality, completely demolishes the prosecution case, remains incapable of being refuted by the prosecution, and continuation of the criminal proceedings would amount to an abuse of the process of Court. Unless all these parameters are cumulatively satisfied, the High Court ought not to interfere in exercise of its inherent jurisdiction, leaving the parties to establish their respective cases before the trial Court in accordance with law.

15. In the present case, the prosecution case is that the deceased was administered blood which was allegedly wrongly identified and that such transfusion resulted in complications leading to her death. During investigation, an expert committee was constituted and its report forms part of the material collected by the Investigating Agency. The charge-sheet has thereafter been filed alleging commission of an offence punishable under Section 304-A of the IPC. The petitioner seeks to dispute the correctness of the expert opinion, the manner of blood transfusion, the role attributable to her and the cause of death of the

deceased.

16. The principal submissions advanced on behalf of the petitioner are that the petitioner acted upon the instructions of the duty doctor; that the blood units had undergone cross-matching before transfusion; that the alleged mistake occurred at the level of the blood bank; that there was no material to establish that the death was caused by mismatch of blood; and that the expert opinion does not specifically attribute gross negligence to the petitioner. In the considered opinion of this Court, these submissions essentially relate to the appreciation of the material collected during investigation and the defence of the petitioner. The correctness of the expert opinion, the actual cause of death, the circumstances in which the blood was transfused and the precise role attributable to the petitioner are matters which cannot be conclusively adjudicated in exercise of the inherent jurisdiction of this Court.

17. At this stage, this Court cannot undertake a meticulous examination of the evidence or record findings regarding the correctness of the prosecution case. Whether the petitioner acted in accordance with the instructions of the duty doctor, whether the blood units were properly cross-matched, whether the alleged error was committed at the blood bank, and whether such transfusion was responsible for the death of the deceased are all matters requiring appreciation of the evidence and, therefore, are best left for consideration by the learned trial Court. The defence sought to be projected by the petitioner cannot constitute a valid ground for quashing

the criminal proceedings at this stage.

18. As regards the contention based on the principle of parity, the orders passed in favour of the co-accused doctors have also been placed before this Court. However, the mere fact that the proceedings against the co-accused have been quashed would not, by itself, entitle the present petitioner to the same relief, particularly when the role attributed to the petitioner and the material available against her have to be examined on their own footing. The question whether the petitioner was negligent in the discharge of her duties is ultimately a matter to be determined on the basis of the evidence available on record.

19. Applying the principles laid down by the Hon'ble Supreme Court in *Neeharika* (supra) and *Pradeep Kumar Kesharwani* (supra), this Court is of the considered opinion that the allegations contained in the FIR and the material collected during investigation prima facie disclose the commission of cognizable offences. The case does not fall within any of the exceptional categories warranting interference under Section 528 of the BNSS. The submissions advanced on behalf of the petitioner are matters of defence which are required to be established before the learned trial Court during the course of trial.

20. Consequently, this Court finds no ground to exercise its inherent jurisdiction under Section 528 of the BNSS for quashing the criminal proceedings. Accordingly, the present petition, being devoid of merit, is hereby **dismissed**. However, it is made clear that the observations made herein are only for the purpose of deciding the present petition

under Section 528 of the BNSS and shall not influence the learned trial Court while deciding the Sessions Trial on its own merits and strictly in accordance with law.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**