

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27537 of 2012

Arising Out of PS.Case No. -18 Year- 2012 Thana -null District- PATNA

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1. Dr.(Mrs.) Pramila Modi W/O Dr. Ram Krishna Modi Owner and Director, M/S Modi Nursing Home, Road No. 11 F, Rajendra Nagar, P.S. Kadamkuan, District Patna.

.... Petitioner/s

Versus

1. State of Bihar.
2. Subodh S/O Shri Chandrashekher Prasad Singh Resident Of Village Marrachi, Police Station Marrachi, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-03-2015

The petitioner seeks quashing of the order of cognizance dated 30.05.2012 passed by the Judicial Magistrate, 1st Class Patna in Complaint Case No. 18 C of 2012 under Section 304 A of the Indian Penal Code.

The case of the complainant is that he admitted his daughter in the clinic of the petitioner on 01.10.2011 during the period of her pregnancy. Subsequently he was asked by the petitioner to deposit a certain amount which he deposited. However, thereafter she was operated but her condition deteriorated. She was then referred to P.M.C.H on 02.10.2011 where she was sent to I.C.U but she died.

It has rightly been submitted on his behalf that there is a

difference between “negligence” and “criminal negligence” the concept of which has been explained by the Apex Court in various decisions. In such circumstances, the complaint petition, when no criminal offence is made out deserves to be set aside.

On the other hand counsel for the complainant submits the petitioner was repeatedly asked by the complainant to attend to his daughter but she did not come and therefore she should be prosecuted for criminal negligence.

I am unable to accept the submissions placed on behalf of the complainant on account of the clear law in this regard. Hence, the application is allowed and the order of cognizance dated 30.05.2012 passed by the Judicial Magistrate, 1st Class Patna in Complaint Case No. 18 C of 2012 is hereby quashed.

However, quashment of the present case shall have no bearing on any other proceedings pending against the petitioner.

(Anjana Prakash, J)

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