

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4848 of 2012

Arising Out of Complaint Case No. 1331C of 2010 District- SAHARSA

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Dr. Rajani Ranjan, S/O Uprndra Prasad Yadav, Resident Of Ganga Sadan, House
No. 117, Ward No.12, Gautam Nagar, Gangjala, P.S & Dist- Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar
2. Manoj Kumar Jha, S/O Shambhu Nath Jha, Resident Of Village- Tiwary Tola,
Ward No. 31, P.S + Distt- Saharsa

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. K.V. Nand, Adv.
Dr. Champa Kumari, Adv.
For the State : Mr. Lalan Kumar, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-02-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of
cognizance dated 15.11.2011 passed by the Judicial Magistrate, 1st
Class, Saharsa, in Complaint Case No. 1331c of 2010.

The case of the Complainant is that the Petitioner as a
Doctor did not properly operate upon the wife of Complainant on
account of which she had to be taken for further treatment and,
thereafter, she died.

It has been submitted on behalf of the Petitioner that at
best a case of negligence is made out and there are a catena of
decisions in his support that there is a difference between

“Negligence” and “Criminal Negligence” and it is only Criminal negligence which can be tried by a Criminal Court.

On the other hand, the counsel for the Complainant submits that since his wife died on account of negligence on the part of the Petitioner who was a medical practitioner, he should be put on trial.

Having considered the proposition of law laid down by the Hon’ble Supreme Court in a series of cases, the application stands allowed and the order of cognizance dated 15.11.2011 passed by the Judicial Magistrate, 1st Class, Saharsa, in Complaint Case No. 1331c of 2010, is hereby set aside.

However, the quashment of present Proceeding shall have no bearing on any other claim of the Complainant.

(Anjana Prakash, J)

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