

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M No.26990 of 2015

Date of Decision: 28.8.2015

Sohan Lal

..Petitioner

Vs.

Dr.Inderjeet Arora and another

..Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Jitender Dhanda, Advocate for the petitioner.

JITENDRA CHAUHAN, J.(ORAL)

1. This is a petition under Section 482 of the Code of Criminal Criminal Procedure praying for quashing order dated 18.1.2014 passed by the Judicial Magistrate Ist Class, Bhiwani, dismissing the complaint of the petitioner and also the order dated 20.8.2014 passed by the Additional Sessions Judge, Bhiwani dismissing the revision petition filed by the petitioner.

2. Learned counsel for the petitioner contends that the orders of both the courts below are against law and perverse; that the petitioner has prima facie proved it to be a case of medical negligence, in which due to grave negligence of the respondent doctor, the wife of the petitioner, died. It is a fit case where the orders of both the courts below are liable to be set aside and matter may be remanded back for

afresh decision on merits after summoning the doctor as an accused.

3. I have heard the contention of the learned counsel for the petitioner and carefully gone through the orders of both the courts below with his able assistance.

4. Admittedly, Smt.Shanti Devi wife of the petitioner was admitted in the hospital of the respondent on 29.8.2008. The blood was arranged, transfused to the wife of the petitioner and the transfusion was stopped within five minutes. The patient was referred to PGIMS Rohtak alongwith one of his employee. At that time, she was fit, but on the way she expired. The petitioner did not opt for post mortem examination. The matter was referred to the Medical Board of the doctors by the Court, but the cause of death could not be ascertained. The learned counsel could not point out any iota of evidence, which proves that the death of the patient Smt.Shanti Devi was due to the negligence of the doctor. When the patient was brought to the doctor, he provided him the best medical aid to save her and thereafter the patient was referred to the PGIMS, Rohtak but unfortunately she died on the way.

5. In the latest leading case on 'medical negligence' titled as ***Jacob Mathew Vs. State of Punjab and another, AIR 2005 Supreme Court 3180***, the Hon'ble Supreme Court observed that an error of judgment on the part of professional is not negligence and a private complaint against a doctor may not be entertained unless the complaint

is supported by another competent doctor. In this case, as already referred, the cause of death has not been brought on record as the petitioner himself has not got conducted the post mortem examination of the dead body of his wife Smt.Shanti Devi.

6. The Court's below have cautiously followed the guidelines framed in ***Jacob Mathew's case*** on medical negligence. There is no illegality, perversity or miscarriage of justice in the orders of both the courts below. There is no evidence that the respondent has prima facie committed any offence. Both the courts below have rightly dismissed the complaint.

7. For the foregoing reasons, this petition has no merit and is dismissed in limine.

28.8.2015
Meenu

(Jitendra Chauhan)
Judge