

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-4495 of 2014
Date of decision : May 28, 2015

Smt. Rewati Devi

...Petitioner...

versus

State of Haryana and another

...Respondents...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. APS Mann, Advocate,
for the petitioner.

Mr. Vikas Chopra, DAG, Haryana,
for respondent No.1.

Mr. Gorakh Nath, Advocate,
for respondent No.2.

JASPAL SINGH, J.

This petition has been preferred under Section 482 of the Code of Criminal Procedure seeking setting aside of order dated December 24, 2013 passed by CJM, Narnaul whereby an application dated December 11, 2013, preferred by Rewati Devi for obtaining opinion from a board of doctors/expert regarding alleged injury No.1 appearing on the person of respondent No.2-Vijay Goswami has been declined in a case registered against her and her family members vide FIR No. 539, dated October 20, 2013, under Sections 148, 149, 323, 506, 452, 435, 427 IPC (Sections 325 and 307 IPC added later on), registered at Police Station City Narnaul, District

Mahendergarh and further for issuance of directions to the State to constitute a Board of doctors of any reputed medical institution to conduct fresh medico legal examination of respondent No.2.

2. Admittedly, the occurrence took place on October 20, 2013, in which both the parties sustained injuries. At the instance of Ashish Rao, son of Daya Ram, relative of respondent No.2-Vijay Goswami, FIR No. 539, dated October 20, 2013 was registered at Police Station City Narnaul, District Mahendergarh whereas a cross version FIR No.541, dated October 21, 2013 was got registered by Bimla Devi, relative of petitioner against respondent No.2, 08 other persons besides 50 unknown persons. After the occurrence, it came to light that petitioner and 7 ladies of her group sustained as many as 15 injuries whereas from the other side respondent No. 2 and 4 other persons suffered injuries. All the injureds were medico legally examined at General Hospital, Narnaul. At the time, respondent No.2-Vijay Goswami is said to have been referred to PGIMS, Rohtak but instead of approaching there, he got himself medically examined and treated at MG hospital, Banswara (Rajasthan), which is at a distance of 650 kms from the place of occurrence whereas PGIMS, Rohtak was hardly at a distance of 150 kms. Respondent No. 2-Vijay Goswami reached MG, Hospital, Banswara (Rajasthan) on October 27, 2013 and was discharged on November 17, 2013, as per discharge slip (Annexure P-9). On the basis of treatment allegedly got by him at MG Hospital, Banswara (Rajasthan), he got added offence under Sections 325 and 307 IPC in the FIR No. 539, dated

October 20, 2013, registered against the petitioner and others.

3. The contention of learned counsel for petitioner is that no doubt, respondent No.2-Vijay Goswami was medico legally examined in General Hospital, Narnaul and was referred to PGIMS, Rohtak but to the utter surprise instead of approaching concerned medical officer(s) at PGIMS, Rohtak, which is hardly at a distance of 150 kms from the place of occurrence, opted to get himself medically examined and treated at MG, Hospital, Banswara (Rajasthan), which is at a distance of 650 kms. Though, it has been alleged by respondent No.2 that he had gone to Sawai Man Singh Hospital, Jaipur and remained under treatment there from October 20, 2013 to October 27, 2013 but there is no document or prescription slip showing his treatment there. In fact, he approached MG Hospital, Banswara (Rajasthan) and got himself admitted on October 27, 2013 and was discharged on November 17, 2013. During that period, he was also subjected to x-ray as well as CT Scan of his skull, reports were prepared and on the basis of those reports, opinion has been given by the doctor, to be dangerous to life. It was only on the basis thereof offence under Section 307 was added.

4. In the case in hand, application preferred by petitioner seeking opinion of Board of doctors in respect of injury No. 1 sustained by respondent No.2, has been declined, simply on the ground that report of concerned doctor of Govt. Hospital, Narnaul, who initially treated injured is available on record and that there is no basis, on which, the report of doctor declaring injuries sustained by

respondent No.2-Vijay Goswami, dangerous to life can be said to be incorrect or having been procured.

5. At this juncture, it would not be out of place to mention that reply to the application was filed on behalf of State clearly stating that it has no objection, if, the opinion regarding nature of injury suffered by injured Vijay Goswami from the Board of Doctor is obtained. The mere fact that report has been given by doctor, who has initially gave treatment to Vijay Goswami-respondent No.2 cannot be termed to be a conclusive proof. It is only an opinionative evidence. Moreover, in the circumstances, which has been discussed and narrated above, there is nothing on the record to suggest that as to where respondent No.2 got treatment after he was referred to PGIMS, Rohtak. No record is forthcoming and there is no record with regard to his admission and treatment in MG Hospital, Banswara (Rajasthan) for the period of October 27, 2013 to November 17, 2013. Since, an offence under Section 307 has been added, which is exclusively triable by the Court of Sessions, on the basis of CT Scan and X-ray reports, especially in the circumstances that none of the doctors, who gave treatment to respondent No.2 after October 20, 2013 has been examined or associated, this Court is of the considered view that it would be apt and proper to determine the nature of injury by constituting a medical board of doctors.

6. Accordingly, impugned order is set aside. Consequently, application dated December 11, 2013 stands allowed. The Incharge, PGIMS, Rohtak is directed to constitute a Board of Doctors, who

shall examine injured-respondent No.2 Vijay Goswami as well as medical records and to give a fresh opinion with regard to the nature of injury No.1 appearing on the person of respondent No.2. Necessary board be constituted within a period of 15 days from the date of receipt of certified copy of this order and report thereof be made available to the trial court, subsequent thereto, to proceed with the trial.

7. Disposed of.

May 28, 2015

sonika

**(JASPAL SINGH)
JUDGE**