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

CRM-M-6391 of 2015

Date of Decision: February 26, 2015.

Hari Chand

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vivek Khatri, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the orders dated 24.07.2014 (Annexure P-4) and 12.02.2015 (Annexure P-5).

Learned counsel for the petitioner has submitted that respondent No.2 was not a qualified doctor, who had imparted treatment to the wife of the petitioner. As a result of the injection given by respondent No.2 to the wife of the petitioner, she had died. Hence, respondent No.2 was liable to be proceeded qua commission of offence punishable under Section 304 of Indian Penal Code, 1860 ('IPC' for short) and Section 15 of the Indian Medical Council Act, 1956 ('Act' for short). In support of his arguments, learned counsel has placed reliance on **Kanagalakshmi and another versus Inspector of Police, Thingalur Police Station, Perundurai Taulk, Erode District**, 2011 (3) MLJ (Criminal) 629, **Dharam Pal and another versus State of Punjab and others**, 2013 (2) R.C.R. (Criminal) 957, **Court on its own motion versus State of Punjab and others**, 2005(4) R.C.R. (Criminal) 673 and **Gursharanjit Singh versus State of Punjab**, 2007(2) R.C.R.

(Criminal) 249.

Prosecution story in brief is that, Chand Kori was suffering from cold for two days and she was taken to the respondent No.2 for treatment, by her husband-petitioner. On 10.10.2010, respondent No.2 gave an injection to Chand Kori and as a result, froth started coming from her mouth and she became unconscious and later died. Chand Kori had died due to wrong injection given to her by respondent No.2.

FIR in the present case was registered against the respondent No.2 qua commission of offence punishable under Section 304-A IPC. Before the Magistrate, petitioner moved an application (Annexure P-2) that accused had committed offence punishable under Section 304 IPC and Section 15(3) of the Act.

The said application reads as under:-

“Application for commitment of accused under section 304 IPC and Section 15(3) of Indian Medical Council Act, 1956.

1. That the accused Dr. Surinder was practicing as doctor in allopathic medicine and on 10.10.2010 at 7.30 PM Hari Chand took his wife Chand Kumari for her treatment to the said doctor at his clinic in village Mothsara and he injected her and as a result of which froth came from her mouth and she fell unconscious and after some time she died because of that.

2. That the accused has committed a prima facie crime. Hence under Section 304 IPC and Section 15(3) of Indian Medical Council Act, 1956.

It is, therefore, prayed that accused may be committed to the court of Sessions for trial under Section 304 IPC and Section 15 of the Act ibid.”

Thus, a perusal of the application does not reveal that the petitioner had levelled any allegation that respondent No.2 was

not a qualified doctor. Even during the course of arguments, learned counsel for the petitioner has failed to point out anything from record showing that respondent No.2 was not a qualified doctor.

Trial Court while dismissing the application filed by the petitioner vide impugned order dated 24.07.2014 has noticed that doctor Amit Kumar had opined that as per the report of chemical examiner, cause of death was due to sudden cardiac arrest and chance of death because of injection was very rare.

It has been noticed by the Court of revision while passing the impugned order dated 12.02.2015 that as per report submitted under Section 173 Cr. P.C., no spurious/duplicate medicine or injection had been recovered from the premises of the accused by the police.

In these circumstances, the Courts below had rightly dismissed the application (Annexure P-2) moved by the petitioner. I have gone through the judgments relied upon by the learned counsel for the petitioner but the same fail to advance the case of the petitioner as these are based on different facts.

Dismissed.

**(SABINA)
JUDGE**

February 26, 2015
m.singh