

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.43634 of 2016

ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of the 2nd respondent in registering the case in Crime No.330 of 2016, dated 05.12.2016, as illegal and arbitrary and consequently direct the 2nd respondent not to arrest the petitioner besides quashing the case in Crime No.330 of 2016.

Heard and perused the material available on record.

The 3rd respondent lodged the present complaint against the petitioner alleging that on 05.12.2016 at about 3.00 hours, while the daughter of the 3rd respondent was suffering with pregnancy pains, the 3rd respondent has admitted his daughter in Venkata Sai Hospital, Nandigama, wherein the petitioner, who is doctor in the said hospital, without the support of any Anesthesia Expert and without taking proper precautions, started the process of delivery and when the petitioner injected anesthesia medicine, the daughter of the petitioner became unconscious, as a result of which the daughter of the 3rd respondent and her baby in the womb died. Basing on the said complaint, the 2nd respondent registered the same as Crime No.330 of 2016 for the offence under Section 304 IPC. The main grievance of the petitioner is that the 2nd respondent is continuing investigation in the above said crime, which is contrary to the guidelines laid down by the Hon'ble Supreme Court in **JACOB MATHEW Vs. STATE OF PUNJAB**¹.

¹ Punjab (2005) 6 SCC Page 1

Considering the facts and circumstances of the case and the grievance of the petitioner, this Court is of the view that the 2nd respondent can be directed to complete investigation without arresting the petitioner.

Accordingly, the 2nd respondent is directed to complete the investigation in Crime No.330 of 2016, as expeditiously as possible and file a final report, if any, either way in accordance with law, without arresting the petitioner and the 2nd respondent is further directed to follow the guidelines laid down by the Apex Court in **JACOB MATHEW Vs. STATE OF PUNJAB (Supra 1)**. The petitioner is directed to execute personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with one surety for the like sum to the satisfaction of the 2nd respondent as surety for his future appearance for the purpose of investigation and the petitioner is directed to co-operate with the investigation.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 15th December, 2016

KL