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

CRM-M-11991 of 2016 (O&M)

Date of decision: December 22, 2016

Dr. J.B. Dilawari

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Puneet Bali, Senior Advocate with
Ms. Monika Thakur, Advocate for the petitioner.

Mr. K.S. Nalwa, Addl. AG Punjab.

Mr. Navkiran Singh, Advocate for respondent No.2.

A.B. CHAUDHARI, J (Oral)

Affidavit of Alam Vijay Singh, PPS, Deputy
Superintendent of Police, City-I, District SAS Nagar (Mohali) filed by
the learned State counsel, today in Court, is taken on record.

Rule. Heard forthwith with the consent of the learned
counsel for the rival parties.

In FIR No.26 dated 25.02.2016, under Sections 304-A of
Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station
SAS Nagar, Mohali, petitioner seeks quashing of the said FIR along
with all consequential proceedings arising therefrom.

This petition was heard at length on 21.12.2016, *inter alia*
the question regarding the compliance of the judgments of the
Supreme Court by the States for constitution of medical board qua the

criminal complaints received in the police stations or private compliant cases about the alleged criminal negligence etc. When the turn of the learned State counsel came, he fairly made a statement, yesterday, i.e. 21.12.2016 that he learnt about the result of the ongoing investigation qua the petitioner that some conclusions about the petitioner were drawn at the end of the investigation qua the petitioner and therefore, he wanted to put the same on record in black and white. Accordingly, the matter was adjourned for today, i.e. 22.12.2016 at 4:00 P.M.

Today, learned State counsel has, at 4:15 P.M., filed an affidavit sworn by Alam Vijay Singh, PPS, Deputy Superintendent of Police, City-I, District SAS Nagar (Mohali). The relevant paragraphs are 3 and 4 therefrom, which are quoted here under:-

“3. That it is respectfully submitted that during the course of investigation conducted so far by the police, no evidence has come to light to prove the guilt of the petitioner. Moreover, as per the opinion of the medical board constituted at Civil Hospital, Phase VI, Mohali, no negligence was attributed to the petitioner.

4. That it is respectfully submitted that thus, no concrete evidence has come on record to prove the guilt of the petitioner and the same is indicating his innocence in the present case, accordingly he has been proved innocent in the pending investigation, however, the role of the staff members and management of Max Hospital, Phase VI, Mohali is still under investigation. xxxx.”

It is clear from the reading of the above paragraphs 3 and 4 of the affidavit that the petitioner-Dr. J.B. Dilawari has been found innocent.

In the light of the above position, I think, FIR in question will have to be quashed qua the petitioner only, after accepting the statement made in Paragraphs 3 and 4 of the affidavit as above. In the result, I make the following order:

ORDER

- (i) CRM-M-11991 of 2016 is allowed;
- (ii) FIR No.26 dated 25.02.2016, under Sections 304-A of Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station SAS Nagar, Mohali along with all consequential proceedings arising therefrom, qua the petitioner, is quashed and set aside;
- (iii) Liberty is reserved in favour of the police to continue their investigation in the said FIR against the other accused persons than the petitioner-Dr. J.B. Dilawari.

(A.B. CHAUDHARI)
JUDGE

December 22, 2016

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No