

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13078 of 2018 (O&M)
DECIDED ON: November 01, 2018

DR. RISHI THUKRAL

..PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vijay Rana, Advocate,
for the petitioner.

Mr. Vikramjit Singh, Addl.A.G., Haryana.

Mr. Keshav Partap Singh, Advocate,
for respondent No.4.

Mr. Vaibhav Narang, Advocate,
for respondent No.5.

RAMENDRA JAIN, J. (ORAL)

CRM-38786-2018

Application is allowed as prayed for. Reply filed along with the application on behalf of respondent No.4 is taken on record, subject to all just exceptions. Be tagged at appropriate place.

Main case

Through this petition under Section 482 Cr.P.C., the petitioner has prayed for issuance of direction to respondents No.2 and 3 to investigate the matter, take appropriate action against respondents

No.4 and 5, lodge FIR under Sections 304-II and 506 IPC against them and to hand over the investigation to some other agency.

Briefly, surgery called as “Abdomino-plasty” and “Liposuction” was conducted to the wife of the petitioner by respondent No.4 in Navjeevan Multispeciality Hospital, Hisar, of whose, respondent No.5 is the Director. However, due to some medical complications, she was referred to Lifeline Institute of Medical Sciences, Hisar, where also, when the condition of wife of the petitioner did not improve, she was further referred to M/s Medanata Medicity Hospital, Gurgaon where she died on 14.10.2014. Since, the wife of the petitioner had died in quite a young age on account of alleged medical negligence, therefore, the petitioner sought opinion from Dr. Anjani Kumar Kundal, MS (G. Surgery) DNB (Pacd Surgery) Associated Consultant of BLK Hospital, Delhi and Dr. Chander Shekhar, Consultant of Critical Care Private Hospital, Gurgaon about the treatment and surgery conducted by respondent No.4 to his wife. Both of them opined that wife of the petitioner died on account of medical negligence of respondent No.4.

Based on the said opinions (Annexure P-5 and P-6), the petitioner filed a complaint to the Superintendent of Police, Hisar on 30.12.2014 for registration of a case under Section 304-II and 506 IPC against respondent No.4 for causing death of his wife on account of medical negligence and misconduct.

Initially, the said complaint of the petitioner was referred to Civil Surgeon, Hisar, but since there was no expert of the field for which wife of the petitioner was operated, Civil Surgeon, Hisar further referred the complaint of the petitioner to PGIMS, Rohtak to inquire into and submit a report. Consequently, Medical Superintendent of PGIMS, Rohtak constituted a board to give opinion about the negligence on the part of respondent No.4, vide office order dated 15.10.2015. Consequently, Board after convening meetings on 15.02.2016 and 21.03.2016, 28.02.2017, thus opined as under:-

“Dr. Seema Thakral, the deceased was operated for a surgery she had asked for, with her due informed written (from the family/husband) consent. The surgery progressed uneventfully under anesthesia. However, she deteriorated during the post operative period with signs suggestive of blood loss. She was adequately managed and resuscitated at every step. Suggestions of re-exploration were given by the operating Surgeon, for which the relatives (husband) opted for Medanta, Medicity Gurugram, being a higher centre. Further patient was managed at various hospitals with standard care. The operative surgeon was in constant touch with the patient throughout her illness.

Subsequently, patient expired, probably because of multi organ dysfunction syndrome secondary to sepsis/acute kidney

injury or disseminated intravascular coagulation. However, the exact cause of death cannot be ascertained as post mortem was not done.”

exonerating respondent No.4 for his alleged medical negligence.

Learned State counsel in its reply by way of affidavit of Mohammad Jamal, HPS, Deputy Superintendent of Police, Head Quarter, Hisar has averred that no case is made out against respondent No.4. Resultantly, the instant petition is liable to be dismissed.

It is pertinent to mention that the State in its reply has pointed out that after receipt of opinion from the board of doctors, the application of the petitioner was filed. The petitioner had filed the instant petition as a counter blast to the action taken by respondent No.4 against petitioner as he had lodged an illegal claim for the death of his wife with the insurance company on falsehood by forging documents. When this fact came to the knowledge of respondent No.4 and insurance company verified cause of death of wife of the petitioner upon the complaint of respondent No.4, FIR No.901 dated 13.10.2015 under Sections 420, 467, 468, 471 and 120-B IPC was registered against the petitioner at Police Station Civil Lines, Hisar. The petitioner was arrested in the said case on 16.02.2017. Final report under Section 173 (2) Cr.P.C. has also been filed against him before Illaqa Magistrate, Hisar on 23.05.2017. Presently, the petitioner is facing trial.

In view of the reply of the State and opinion (Annexure R-1)

of the Board constituted by the Medical Superintendent of PGIMS, Rohtak opining that there is no negligence on the part of respondent No.4, this Court finds no merit in the instant petition. As such, the same is dismissed.

November 01, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No