

CWP No. 19937 of 2016 (O&M)

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

CWP No. 19937 of 2016 (O&M)

Date of decision: 09.05.2019

Sawaranjit Singh

... Petitioner

Versus

Punjab State Human Rights Commission and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Gurcharan Dass, Advocate, for the petitioner.

Mr. R. Kartikeya, Advocate, for respondent No.1.

Mr. Prateek Mahajan, Advocate, for respondent No.5.

Mr. Bhuwan Luthra, Advocate, for respondent No.6.

KRISHNA MURARI, CHIEF JUSTICE (Oral)

Heard learned counsel for the parties.

The order impugned in this petition passed by the Punjab State Human Right Commission, dated 03/04.3.2016, closing the complaint made by the petitioner herein, is predicated on an order dated 29.1.2015, passed by the Judicial Magistrate 1st Class, Jagraon, upon the complaint made by the petitioner in respect of the same incident about which he had already made a complaint before the Commission.

It is an undisputed fact that vide order dated 01.08.2016 passed by Additional Sessions Judge, Ludhiana, in a revision petition, the order passed by the Judicial Magistrate 1st Class, Jagraon, dated 29.1.2015, was set

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aside and the matter has been remanded back to the Judicial Magistrate 1st Class, for reconsideration. It is also an equally undisputed fact that on reconsideration, the accused persons have been summoned and the trial is on.

To recapitulate the facts in brief, a complaint was made by the petitioner in respect of the treatment meted out to him and his brother after they suffered grievous injuries, by doctors-respondents No.5 and 6 at Civil Hospital, Raikot. The allegation was that proper treatment was not given to the petitioner and his brother, who were injured in an incident and the Medico Legal Report was also false. Subsequently, they both had to undergo treatment at CMC, Ludhiana, where it was certified that they suffered grievous injuries on different parts of the body, at the hands of the accused persons. The complaint also reflected that the two doctors posted at Civil Hospital, Raikot, had given wrong Medico Legal Report, in connivance with accused persons, who had caused injuries.

Learned counsel for the petitioner vehemently contends that the impugned order passed by the Commission, closing the complaint, is solely based upon the order passed by the Judicial Magistrate 1st Class, dated 29.1.2015, which has subsequently been set aside in the revision and the matter is still pending trial, and thus, the impugned order is bad in law.

Learned counsel appearing for the respondents tried to justify the impugned order, by urging that in view of the law laid down by the Hon'ble Apex Court in the case of **Jacob Mathew Vs. State of Punjab and another, 2005 AIR (SC) 3180**, merely an error of judgment on the part of professional cannot be termed to be a negligence and a private complaint against the doctor may not be entertained unless the complaint is supported

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by another competent doctor. It is also submitted that allegations levelled against respondents No.5 and 6, the two doctors, would not be covered under the realm of the Protection of the Human Rights Act, 1993, so as to vest the Human Rights Commission with the power to investigate into the same.

Be that as it may, since the Commission proceeded to close the proceedings only on the basis of order dated 29.1.2015, passed by the Judicial Magistrate 1st Class, Jagraon, dismissing the complaint without even examining the merits of the complaint made by the petitioner and also the defence set up by the respondent-Doctors, which has already been set aside, we feel it appropriate to remand the matter to the Commission.

Accordingly, the matter is remanded to the Punjab State Human Rights Commission to consider the same afresh, in accordance with law. However, if the Commission feels that outcome of the trial will have any bearing on the complaint made by the petitioner, it shall be open to the Commission to await the outcome of the same and thereafter proceed with the matter.

With the aforesaid observations and directions, the writ petition stands disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 09, 2019
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	NO