

114

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

CRM-M-7086-2022

DECIDED ON: 7th SEPTEMBER, 2022

SURESH KUMAR

PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sawan Choudhary, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

SANDEEP MOUDGIL, J

The instant petition under Section 482 Cr.P.C. has been filed seeking quashing of impugned order dated 01.09.2021 (Annexure P-3) passed by learned Additional Sessions Judge, Kaithal whereby the revision petition against the order dated 04.11.2015 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Kaithal in Crl. Complain No. 09 of 2013, dated 13.12.2011/17.09.2015 dismissing the protest petition under Section 304-A IPC, has been dismissed.

Brief facts of the case are that complainant Suresh Kumar was married to Asha Devi. On his complaint FIR No. 250, dated 18.09.2011,

under Section 304-A was registered at Police Station Pundri on the allegation that his wife was pregnant and her delivery was to be conducted by the respondent No.2. It is alleged that Asha Devi died due to negligency of respondent No.2 as she kept on trying various unscientific methods of delivery which took more than three hours and condition of Asha deteriorated. The respondent No.2 did not take care of the patient in a proper manner and referred the patient to Kaithal in almost dead condition. She did not perform requisite pre-operative tests and failed to consult the specialist doctors from 10:00 am to 1:00 pm on 18.09.2011 nor any surgeon was called nor any arrangement for anesthesia was made and the treatment of Asha by respondent-accused was not satisfactory on 17/18.09.2011. There was no arrangement of ventilator and incubator etc. in the nursing home of respondent- accused. The omissions on the part of respondent-accused is on account of her negligency and due to the lack of due care and responsibility in treating the patient-Asha, double tragedy of two deaths has taken place. After registration of FIR, investigation was not conducted fairly and properly by the police as the respondent-accused is very influential person and the complainant-petitioner visited the police station many a times and requested to take legal action against the accused but no action was taken and the police submitted a wrong cancellation report on 04.12.2012 after a long period, which shows wrong intention of the police.

Learned counsel for the petitioner submits that there was no complicity during the pregnancy period of Asha rather the complicity has arisen due to the unscientific treatment given by the respondent No.2. The

trial Court has ignored the fact that there was full term pregnancy and due to the negligence of respondent No.2- Asha as well as her child had died before delivery. It is asserted that the reports of Asha were normal and when she was taken to the operation theatre, there was no communication with the complainant/petitioner between 10.00 AM and 1.00 PM. rather respondent No.2 assured that everything is normal. Assertion is that neither any treatment record nor any circumstance in which the deceased was referred to the hospital of Dr. Ram Kirti Garg, Kaithal, was disclosed to the complainant/petitioner. In fact, the respondent No.2 on seeing the condition of the deceased, referred her to PGI, Chandigarh but she died on the way to PGI, Chandigarh.

It is asserted that the Courts below have ignored the statement of complainant and other witnesses as well as previous record of the deceased during her pregnancy.

On the other hand, learned State counsel has argued that the wife of the petitioner was examined by the respondent No.2 on 11.09.2011 and tests were got conducted which were normal. Thereafter, on 17.09.2011, her labour pains started and as such the petitioner took her to the hospital of respondent No.2 where tests were again got conducted and there was no abnormality. Thus, it is clear that doctor had got all the tests conducted prior to the delivery. On 18.09.2011 at about 10:00 am, when the wife of petitioner was taken to the operation theatre for delivery at that time the condition of the patient started deteriorating. Thereafter, the respondent No.2 told the petitioner to take his wife to the hospital of Dr. Ram Kirti Garg, Kaithal and Ex. C10 clearly mentions that the respondent

No.2 had arranged an ambulance for her alongwith oxygen support and referred her to another doctor as her condition deteriorated. Thereafter, immediately she was referred to PGI, Chandigarh by Dr. Kirti but unfortunately she died on the way to PGI, Chandigarh. The document Ex. C10 as well as statement of CW3 Dr. Kirti clearly mentions that the oxygen saturation of the patient Asha was 62% which is very much below normal. Also, Ex. C9 mentions that no poison was detected in the body of to Asha (deceased) which shows that no wrong medicine was given by the respondent-accused.

During investigation report of board of Doctors was obtained and it was found that the wife of the petitioner died due to congestive heart failure. Ex. C12 clearly depicts that no definite cause of death has been found in these reports. However, all the circumstantial evidences are suggestive that patient died due to congestive heart failure.

I have heard learned counsel for the parties and also gone through the records of the case and of the considered view that in the case in hand there is nothing on record to show that respondent No.2 acted rashly or negligently while performing her duties as a Doctor. There is nothing on record to suggest that the congestive heart failure is on account of any rashness or negligence on the part of respondent No.2. All the documents referred above clearly show that the doctor was not negligent at all rather was vigilant enough and tried hard to save the life of the wife of the petitioner but to avail as the wife of petitioner passed away on the way to PGI, Chandigarh, for which respondent No.2 cannot be held liable.

In view of discussions made herein above, this Court does not find any illegality or perversity in the impugned orders, as such the same stand upheld and the present petition fails.

Dismissed.

SANDEEP MOUDGIL
JUDGE

7th SEPTEMBER, 2022.
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |