

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CWP-23947-2016(O&M)
Date of decision:08.09.2022

RANBIR

....Petitioner

Versus

STATE OF HARYANA & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Naveen Chopra, Advocate and
Mr. Kuldeep Sharma, Advocate
for the petitioner.

Mr. Vivek Chauhan, AAG Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

The present petition had been instituted seeking transfer of investigation in case FIR No.463 dated 03.09.2016 registered under Section 304 (subsequently deleted and Section 304-A IPC attracted) at Police Station Gohana, City Gohana, Sonipat to some other independent agency.

Learned counsel appearing on behalf of the petitioner vehemently contends that 07 year old son of the petitioner was down with fever whereupon he was taken to Dr. Bhushan for treatment. Medicine was prescribed for 03 days and an injection was also administered to minor Krish. However, health of Krish (son of the petitioner) deteriorated after administration of the medicine and injection, whereupon, he was taken back to the doctor on 02.09.2016. It was then pointed out that the son of the petitioner had suffered reaction due to the injection and was referred to

PGIMS. However, his son succumbed to administration of medicine without carrying necessary tests and precautions. It is further argued that Dr. Bhushan is not a qualified doctor and did not possess any licence to practice. He contends that initially the FIR in question was registered for commission of offence under Section 304 IPC, however, thereafter on account of certain intervening circumstances the said offence was deleted and Section 304-A IPC was attracted to extend undue favour to the accused thus necessitating filing of the present petition.

It is pointed out by learned counsel appearing on behalf of the respondent-State that during the pendency of the present petition, investigation in the present case has already been concluded and a final report under Section 173 Cr.P.C had been filed on 27.10.2016. Further proceedings on the charge had been stayed by this Court vide order dated 14.12.2016.

The aforesaid assertion is not disputed.

I have heard learned counsel for the respective parties. The grouse of the petitioner relates to the fact as to whether the charge under Section 304 IPC is made out or not. The same is an issue that can be examined by the trial Court at the stage of consideration of the final report for framing charge, especially when the investigation already stands concluded and entire evidence collected by the investigating agency can be appreciated. It is also not in dispute that in the event there is any defect in the investigation, the petitioner would have an efficacious remedy in the form of moving an appropriate application under Section 173(8) Cr.P.C for seeking further investigation in the matter. Hence, the grievances, if any, of

the petitioner can be duly addressed by the efficacious alternative remedies available with the petitioner.

In view of the above, learned counsel appearing on behalf of the petitioner does not press the instant petition at this stage and seeks withdrawal thereof with liberty to agitate the pleas before the trial Court at the stage of framing of charge and/or any other appropriate application that may be so advised and moved in accordance with law.

Needless to mention that in the event of such application being moved, the same would be considered in accordance with law and appropriate order shall be passed after taking into consideration the relevant facts and the position in law as set out.

The present petition is accordingly disposed of.

(VINOD S. BHARDWAJ)
JUDGE

08.09.2022
Amandeep

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No