



NEUTRAL CITATION NO: 2022/DHC/004012

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CRL.M.C. 1795/2012**

Date of Decision: 20.09.2022

IN THE MATTER OF:STATE (GOVT. OF NCT DELHI)
THROUGH
DCP, CENTRAL DISTT., DELHI..... Petitioner
Through: Mr. Amit Ahlawat, APP for State
with Mr. Gagan Kumar, Advocate
and Insp. Ganesh Kumar, PS I.P.
Estate.

Versus

DEEPAK TEMPE
S/O LATE SH. K.D. TEMPE
R/O H.NO. 5, TYPE-VI,
MAMC COMPLEX, NEW DELHI.

..... Respondent No.1

DR. MOHAN NAIR
S/O SH. V.P.S. NAIR
R/O D-2/2201, VASANT KUNJ, NEW DELHI

..... Respondent No.2

Through: Ms. Praveena Gautam, Mr. Aman
Sharma and Mr. Pawan Shukla,
Advocates.**CORAM:**
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**JUDGMENT**

**PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. This petition is directed against the order dated 08.09.2011 passed by learned Additional Sessions Judge (FTC), Central, Tis Hazari Courts, Delhi in Crl. Rev. No. 39/2011 titled 'Dr. Deepak Tempe v. State'.
2. The Revisional Court vide impugned order allowed three revision wherein Crl. Revision No. 39/2011 (subject matter of the present case) and Crl. Revision 41/2011 titled 'Dr. Mohan Nair v. State'. By the impugned order, the Revisional Court set aside the order dated 05.07.2010 passed by learned Metropolitan Magistrate, whereby, cognizance of the offence punishable under Sections 420/468/471/201/120B of the IPC was taken against the present respondent and other accused persons and summons were issued to them with respect to FIR No. 496/2006 Police Station I.P. Estate.
3. The facts of the case would show that on 06.02.1997, Dr. Subhash Goel S/o Murari Lal Goel has expired during the treatment in Sunder Lal Jain Hospital, Ashok Vihar, Delhi. The father of the deceased, Murari Lal Goel, alleged negligence of the doctors at the concerned hospital, who were responsible for negligence, resulting into the death of Dr. Subhash Goel. The name of the doctors against whom, negligence was alleged are Dr. Vivek Baniyal, Dr. V.K. Bindal and Dr. Y.P. Munjal. It appears that a Committee of three doctors was constituted by the Department of Health & Family Welfare, Govt. of NCT of Delhi. The names of Committee Members are Dr. Deepak Tempe (respondent), Dr. Mohan Nair and the Chairman of the Committee was Dr. U.A. Kaul (Cardiologist) of G.B. Pant Hospital. An inquiry report appears to have been submitted on 26.06.1997 duly signed by the Committee Members



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wherein negligence on the part of doctors of Sunder Lal Jain Hospital was confirmed. It appears that on the basis of the Committee's recommendation and pursuant to the directions issued by this Court in WP 680/1997, the FIR no. 635/98 came to be registered for offence punishable under Section 304A of the IPC at PS Ashok Vihar against Sunder Lal Jain Hospital and the doctors, who were allegedly responsible for negligence, resulting into death of Dr. Subhash Goel. There appears to be the consumer complaint and during the pendency of the consumer case, one report came to be filed which was different than the one on the basis of which, FIR No. 635/98 was lodged. The National Consumer Disputes Redressal Commission dismissed the consumer complaint. However, Murari Lal Goel, father of the deceased, sought a copy of inquiry report under RTI and he alleged that the report, which was submitted, was forged and fabricated. The same was sought to be enquired into and accordingly, FIR No. 496/2006 came to be registered on 19.09.2006 for the offence punishable under Sections 420/468/471/120B of the IPC, on the direction given by learned Metropolitan Magistrate in exercise of power under Section 156 (3) of the Cr.P.C. After investigation, charge-sheet was filed and the accused in FIR No. 496/2006 were summoned. The present respondent was one of the accused therein.

4. The summoning order came to be challenged by the present respondent and Dr. Mohan Nair by separate revisions as stated in preceding paragraphs. Vide impugned order dated 08.09.2011, the learned court below set aside the order of summon issued against the present respondent and Dr. Mohan Nair. It is stated that the complainant also filed CrI. M.C. No. 3668/2011 & 3773/2011 against the order dated



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08.09.2011 passed by the court below. Vide order dated 01.08.2022, both the Crl. M.Cs. were withdrawn by Murari Lal Goel (original complainant).

5. It is also a matter of record that during the pendency of these proceedings, vide order dated 05.06.2015, the remaining doctors against whom order of summoning was passed were also discharged by the learned Magistrate as no material for commission of offence under Section 420 of the IPC etc. with respect to FIR No. 496/2006 was found. The order of discharge was challenged by the complainant in Crl. Rev. P. No. 498/2015. On 27.02.2020, the said criminal revision petition has also been withdrawn at the instance of original complainant. It is thus seen that the order of discharge passed by learned Magistrate on merits attained finality and the same has not been challenged by the State. The challenge made by the original complainant also remained unsuccessful by virtue of withdrawal of the Crl. Rev.P. No. 498/2015.

6. Under the facts and circumstances of the case, this court is not inclined to interfere into the orders passed by the court below at this stage. Hence, the instant petition stands dismissed.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 20, 2022

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