

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25859 of 2015

Arising Out of PS. Case No.-16 Year-2013 Thana- BHAGWAN BAZAR District- Saran

Dr. Sunil Shankar S/o late Satyamurti Prasad R/o Madhav Bihari lane,
Salempur, P.S. Town Chhapra, Dist- Chhapra.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jagnnath Singh
For the Opposite Party/s : Mr.Hirday Pd.Singh, APP
Mr. Jharkhandi Upadhyay, APP I/c

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 14-02-2023 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

This petition has been filed for quashing the order dated 27.04.2015 in Cri. Rev. No. 66 of 2015 passed by the learned Sessions Judge, Saran dismissing the revision petition by affirming the order dated 11.11.2014 passed in Trial No. 3459 of 2014 by J.M. 1st Class, Chapra, rejecting the petition of discharge under Sections 239 of Cr. P.C. arising out of Bhagwan Bazar P.S. Case No. 16 of 2013 under Section 304A/465 of the Indian Penal Code.

The prosecution story in short is that the petitioner is a doctor who treated the pregnant patient in private clinic and when her condition deteriorated, he referred her to Sadar



Hospital Chapra where she died. The matter was enquired into by the Deputy Development Commissioner, Saran, Chapra, who reported that the petitioner has committed criminal act in treating the pregnant lady.

It has been submitted on behalf of the petitioner that the F.I.R. has been registered against the petitioner without following the guidelines issued by the Supreme Court in the case of ***Jacob Mathew Vs. State of Punjab & Ors.*** reported in ***[(2005) 6 SCC 1]***. Before registration of F.I.R., a committee of doctors should have been formed by the authorities and an expert opinion should have been sought and thereafter, only if the petitioner would have been found committing criminal negligence then only the F.I.R. could have been registered. Nothing has been done in the present case as per the guidelines issued in the case of ***Jacob Mathew Vs. State of Punjab & Ors.*** (*supra*).

The case of the informant is not that the petitioner is not a qualified doctor.

Under the facts and circumstances, this case is squarely covered by the case of ***Jacob Mathew Vs. State of Punjab & Ors.*** (*supra*), therefore this application is allowed and the petition for discharge filed by the petitioner under Sections 239



of Cr. P.C. arising out of Bhagwan Bazar P.S. Case No. 16 of
2013 under Section 304A/465 of the Indian Penal Code is
hereby quashed.
(Sandeep Kumar, J)

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