

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.962 of 2019

Arising Out of PS. Case No.-161 Year-2019 Thana- PATLIPUTRA District- Patna

Dr. Nripati Kumar Lall S/o Sri Y.K. Lall Resident of 40, Pataliputra Colony,
P.S.- Pataliputra, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home,
Govt. Of Bihar, Patna Bihar
2. The Director General of Police, Patna, Bihar Bihar
3. The Senior Superintendent of Police, Patna, Bihar Bihar
4. The Officer In-charge, Pataliputra Police Station, Patna Bihar
5. The District Magistrate, Patna Bihar
6. Prashant Kumar Sinha S/o Late Rajeshwari Prasad Sinha Resident of Road
No. 2, Mahesh Nagar, P.S.- Pataliputra, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar
For the Respondent/s : Mr. Sheo Shankar Prasad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

5 14-03-2023 Heard the parties.

This application has been filed on behalf of the petitioner for quashing the FIR bearing Patliputra P.S. Case No. 161 of 2019.

The prosecution story in short is that wife of Respondent No. 06 Miss Snigdha was admitted on 08.04.2019 in Shayog Hospital for delivery where she was advised to undergo surgery. The surgery was done by Dr. Swarnlata Srivastava and a baby girl was born. However, it was alleged that after surgery, the condition of the wife of respondent No. 06 deteriorated and despite repeated requests no information was



given to him. On 09.04.2019 the wife of the respondent No. 06 was shifted to I.C.U. and second surgery was performed. It was further alleged that the respondent No. 06 met the petitioner and showed his willingness to shift his wife in some other hospital for better treatment. However, the petitioner and Dr. Swarnlata Srivastava has assured him of providing better treatment. The respondent No. 6 tried to enquire about the condition of his wife but no information was given to him. Subsequently, the wife of respondent No. 06 died and he came to know from the staffs of the hospital that his wife died due to alleged negligence during surgery by the doctor and and the petitioner.

The petitioner is the owner of Sahyog Hospital, Patna and is an M.B.B.S. Doctor.

None has appeared for the respondent No. 06., though, notice has been validly served on the respondent No. 06.

Mr. Rajesh Ranjan has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Jacob Mathew Vs. State of Punjab (2005) 6 SCC 1*** and has submitted that this is not a case for criminal prosecution. Moreover, the petitioner was not the treating doctor and the vicarious liability cannot be fixed upon him.



Learned counsel for the State is not able to rebutt the argument of the learned counsel for the petitioner.

It is an admitted position that the petitioner was not the treating doctor and he is the owner of the Sahyog Hospital, Patna in which the deceased was treated.

Considering the law laid down by the Hon'ble Supreme Court in the case of ***Jacob Mathew Vs. State of Punjab (supra)*** as well as the fact that petitioner is not the treating doctor, this application is allowed.

Accordingly, the FIR of Patliputra P.S. Case No. 161 of 2019 is quashed, so far as petitioner is concerned.

Learned counsel for the petitioner further submits that the Manager of the Sahyog Hospital has also filed a case i.e. Patliputra P.S. Case No. 162 of 2019 but no action has been taken by the police in the FIR yet.

On the submission of the learned counsel for the petitioner, this Court is of the view that if an FIR has been registered then the police is duty bound to act in accordance with law and investigate the allegations levelled by the Manager of the Sahyog Hospital and in view of the provisions of the Bihar Medical Service Institution and Person Protection Act, 2011.



The Senior Superintendent of Police, Patna is directed to look into the matter himself and see to it that action in accordance with law is taken pursuant to the registration of the Patliputra P.S. Case No. 162 of 2019.

(Sandeep Kumar, J)

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