

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.65832 of 2019

Arising Out of PS. Case No.-314 Year-2019 Thana- PATNA COMPLAINT CASE District- Patna

DR. SAPNA KUMARI Wife of Dr. Vidyanand Kumar Resident of Mohalla- Station Road,
P.S.- Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pramod Mandal Son of Sachchita Mandal Resident of Village- Hathidah Dargahi Tola, P.O.-
Hathidah, P.S.- Hathidah, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad, Advocate
Ms. Pooja Prasad, Advocate
For the Opposite Party/s : Mr.Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 17-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. None appears for the Opposite Party No. 2 despite
valid service of notice.

3. This application has been filed for quashing of
order dated 19.08.2019 passed by learned Judicial Magistrate-
1st Class, Barh, Patna in Complaint Case No. 314C of 2019 by
which learned Magistrate has taken cognizance for the offence
under Section 304A of the Indian Penal Code.

4. It is alleged that in course of birth of child, the
petitioner pressed the abdomen of the patient due to which the
throat of child was pressed and the child was born dead.

5. Learned counsel for the petitioner has submitted
that after investigation, the police submitted Final Form before
learned Magistrate on 31.01.2016 as a mistake of fact the
learned Magistrate has taken cognizance against the petitioner



under Section 304A of the Indian Penal Code after differing with the Final Form submitted by the police.

6. I have heard submissions of the parties and also perused the materials available on record. The impugned order passed by learned Magistrate is a non-speaking order which is in teeth of law laid down by Hon'ble Supreme Court in case of ***Pepsi Food Ltd. And Another Vs. Special Judicial Magistrate & Others*** reported in ***(1998) 5 SCC 706***. Moreover, petitioner is a doctor and from the materials available on record it appears that the procedure to be adopted in the cases of criminal negligence said to have been committed by a doctor in light of judgment of Hon'ble Supreme Court in case of ***Jacob Mathew Vs. State of Punjab*** reported in ***(2005) 6 SCC 1*** has not been followed.

7. In view of the above, this application is allowed and the impugned order dated 19.08.2019 passed by learned Judicial Magistrate-1st Class, Barh, Patna in Complaint Case No. 314C of 2019 and all consequential proceedings arising out of aforesaid complaint are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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