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117 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-22162-2023 (O&M)

Date of Decision: 19.12.2023

DR. MANOJ GANDHI

...Petitioner

V/S

RAM KALI AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Pallavi Babbar, Advocate
for the petitioner.Mr. Sukhbir Maandi, Advocate for
Mr. Paras Jagga, Advocate
for respondent No. 1.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of criminal complaint titled as "*Isham Singh Vs. Dr. Manoj Gandhi*" bearing No. COMI/1121/2013 and CNR No. HRKH030005252012 registered under Section 304-A of Indian Penal Code, summoning order dated 11.04.2016, charge sheet dated 20.05.2019 and all subsequent proceedings arising therefrom in view of the compromise dated 18.04.2023 (Annexure P-5).

2. Brief facts of the present complaint is that in the month of July 2010, Mohinder Singh suffered with the fever and due to this ailment he had become anemic. On 15.08.2010, he was taken to Dr. HR Gupta, at Cheeka by the complainant and his brother Mahavir Singh. Dr. HR Gupta, asked Mohinder Singh and the complainant to get the preliminary investigation regarding Hemoglobin, Serum Bilirubin and Hepatitis C Virus(HCV).

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Mohinder Singh got his aforesaid tests done from Vikas Clinical Laboratory Chhoti Mandi, Cheeka on 15.08.2010. The Medical technologist Sh. Karam Sheel Ahuja of Vikas Clinical Laboratory gave his report dated 15.08.2010 showing Hemoglobin as 4.2 Gms, Serum Bilirubin as 0.86 and Hepatitis C Virus (HCV) as negative and beside the aforesaid tests no other test of Mohinder Singh was asked to be conducted by Dr. HR Gupta. On checking the tests report of Mohinder Singh, Dr. HR Gupta advised him some medicines and also asked the complainant for administering few units of blood to Mohinder Singh for the early relief. However as he had no arrangement for the transfusion of blood therefore, he verbally referred the patient Mohinder Singh to Dr. Manoj Gandhi the accused no.1 for the blood transfusion. On 15.08.2010 the patient Mohinder Singh was got admitted in the private nursing home of accused no.1. After checking the preliminary investigation report of Mohinder Singh, the accused no.1 asked the complainant to arrange two units of blood of AB positive blood group for Mohinder Singh from Blood Bank Government Hospital Kaithal. The accused no.1 also performed the blood group tests of patient Mohinder Singh his own laboratory. However that report had not been supplied to the complainant by the accused no.1. On 16.08.2010 the accused no.1 also wrote a letter to the accused no.2 who was incharge of blood bank Government hospital Kaithal at that time. The accused no.1 also filled the blood demand form and duly stamped and signed the same and requested for two units of blood of AB positive group for the patient Mohinder Singh. Accused no.1 also sent a sample of blood of patient Mohinder Singh along with aforesaid duly filled blood demand form. The complainant along with his other brother namely Mahavir Singh and Sandeep son of Lakha Ram

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came to Government Hospital Kaithal on the same day and requested the accused no.2 and 3 to issue two units of blood of AB positive blood group for Mohinder Singh. The accused no.2 and 3 asked Mahavir Singh and Sandeep to donate one unit each of their blood. Accordingly, Mahavir Singh and Sandeep donated one unit each of their blood and against these two units of blood, the accused no.2 and 3 issued two units of AB positive blood for Mohinder Singh without cross matching the same and without testing the compatibility of blood sample of Mohinder Singh with the two units of AB positive blood. The complainant was unknown about this fact at that time. That aforementioned two units of AB Positive blood was transfused to Mohinder Singh by the accused no.1 acting negligently in the careless manner. At the time of transfusing the blood, Mohinder Singh suffered lot of inconvenience pain, fever, cold etc as the accused hemolytic reaction had started. But, the accused no. I did not bother about the same and remained continue to administer the blood of wrong blood group to Mohinder Singh in negligent manner and also ignored the requests of the complainant. On 18.08.2010, again the accused no.1 demanded two units more of AB Positive Blood for the patient Mohinder Singh once again. The accused no.1 filled the blood demand from and sent it to the accused no.2 and 3 along with the blood sample of Mohinder Singh. These two units of AB positive blood group were administrated to Mohinder Singh by the accused no.1 at his nursing home at Cheeka and therefore he was discharged by him 20.08.2010. After few weeks Mohinder Singh was again admitted in the private hospital of accused no.1 in September 2010 and on 17.09.2010, the accused no. 1 again made a request to the incharge blood bank Government Hospital Kaithal i.e. accused no.2 for issuing two

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units of blood for patient Mohinder Singh of AB positive blood group. However, this time, the accused no.2 incharge blood bank, Government Hospital, Kaithal and the accused no.3 Medical Technologist Government Hospital Kaithal, posted on that date at Government Hospital Kaithal, got the initial investigation of blood sample of Mohinder Singh sent by accused no.1 and found that group was B positive instead of AB positive. The accused no.2 and 3 wrote a note on the blood demand form to this effect. They also discussed the matter with the accused no.1 on mobile phone and after discussing the same with the accused no.1 they issued two units of B positive blood group for the patient Mohinder Singh after checking the compatibility of blood sample of Mohinder Singh with the two units of B positive blood. The accused no.1 administrated two units of B positive blood group to the patient Mohinder Singh on 17.09.2010. Thereafter again two units of B positive blood group was administrated to Mohinder Singh on 19.09.2010 by the accused no.1 after seeking the same from Government Hospital Kaithal. Due to the wrong transfusion of blood by accused no.1, there developed jaundice to Mohinder Singh. Acute hemolytic reaction also started in the blood of Mohinder Singh. The blood pressure of Mohinder Singh fell down and he started to feel breathlessness. He also started to suffer high degree of fever and loss of appetite and problem in kidneys. Thereafter, treatment was caried on by the accused no.1 and on 19.10.2010 Mohinder Singh was referred to the Department of Hemotology PGI Rohtak by the accused no.1 and he wrongly mentioned the "History of four units of transfusion one month back" on the referral slip in illegal manner by concealing the fact that he had already administrated four other units of AB positive blood group to Mohinder

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Singh on 16.08.2010 and 18.08.2010 in wrongful manner. On 17.01.2011 to 01.02.2011 Mohinder Singh was in need of blood due to his poor anemic condition but, the blood was not available for Mohinder Singh as blood group of Mohinder Singh was not cross matching with any of the other blood group, deposit of the fact that the best efforts were being made at PGI Rohtak. The doctors of PGI Rohtak had clearly opined that cross matching for patient Mohinder Singh was not compatible and so the blood cannot be given to Mohinder Singh. On 03.02.2011 while he was on the way back to PGI Rohtak due to the deficiency of blood and other ailments as a consequence of wrong blood transfusion by the accused. Mohinder Singh died due to the negligency of accused no.1 to 3. Now with the intervention of respectable persons, the matter has been amicably compromised between the parties and they have resolved their disputes and differences.

3. Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before the trial court/Illaq Magistrate for getting their statements recorded in support of the compromise. In pursuance of the direction, a report has been received from Judicial Magistrate Ist Class, Kaithal stating that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one.

4. Learned Deputy Advocate General, Haryana on instructions from the Investigating Officer along with learned counsel for respondent No. 1 admitted the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR, in view of the law laid down by the Hon'ble

Supreme Court.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The parties have arrived at a compromise and settled their dispute. A compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak. A two Judge Bench of the Hon'ble Supreme Court in ***Shakunta Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63***, speaking through Justice V.R. Krishna Iyer, has held as under:-

“4.The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship or reunion.....”

7. Consequently, keeping in view the fact that the dispute has been amicably settled between the parties and in view of the law laid down by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466** and **Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.) 1052**, this petition is allowed and criminal complaint titled as ***“Isham Singh Vs. Dr. Manoj Gandhi”*** bearing No. COMI/1121/2013 and CNR

No. HRKH030005252012 registered under Section 304-A of Indian Penal

Code, summoning order dated 11.04.2016, charge sheet dated 20.05.2019 and all subsequent proceedings arising out of the same are quashed qua the petitioner only.

19.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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