



CrI.O.P.No.25576 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.25576 of 2025
and CrI.M.P.No.17344 of 2025

Doctor Vinith

... Petitioner

Vs.

1.State represented by
The Inspector of Police
F-3, Police Station, Nungambakkam
Chennai

2.A.Josebeen

... Respondents

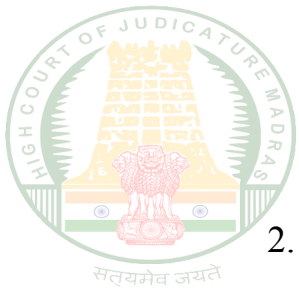
PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to call for the records on the file of the learned XVIIth Additional Judge, City Civil Court, Chennai in S.C.No.153 of 2025 and quash the same.

For Petitioners : Mr.V.Sairam

For Respondents : Mr.K.M.D.Muhilan for R1
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records on the file of the learned XVII Additional Judge, City Civil Court, Chennai in SC.No.153 of 2025 under Section 174 of CrPC and 304(ii) of IPC.

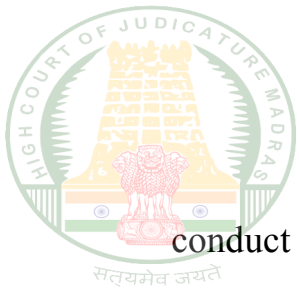


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2. It is the case of the petitioner that the son of the defacto complainant had visited ARHT Global Clinic Hair Transplant clinic on 15.05.2016 for implantation of hair and the treatment was successful. Subsequent to the treatment, there was a raise in temperature and the patient died on 17.05.2016. Thus, the prosecution has registered an FIR and charge-sheet was filed under Section 304A of IPC on the file of the learned XVI Metropolitan Magistrate at Egmore, Chennai against the petitioner and two others. The petitioner filed quash petition in Crl.O.P.No.20954 of 2018 and it was submitted that based on the further investigation, the prosecution has filed an additional final report for the offences under Section 304(ii) of IPC. The said quash petition was dismissed vide order dated 21.09.2023. Now, final report is filed in S.C.No.153 of 2025, however, it is the grievance of the petitioner that there was no trace of petition under 173(8) of CrPC seeking for further investigation. Hence, seeks for quashment of the charge-sheet.

3. The main contention of the learned counsel for the petitioner is that when the quash petition in Crl.O.P.No.20954 of 2018 was pending before this Court, this Court vide order dated 24.11.2022 had directed the respondent police to file appropriate petition before the Trial Court to



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conduct further investigation, however, without filing any such petition before the Trial Court, charge-sheet has been filed under Section 304(ii) of IPC contrary to law and against the provisions of CrPC. Therefore, seeks to quash the entire final report. In support of his submission, he placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Vinubhai Haribhai Malaviya vs. The State of Gujarath* reported in *AIR 2019 SCC 5233* for the proposition that the police have to seek permission of the Court to continue further investigation and file supplementary charge-sheet.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials placed on record.

5. Whether the offence falls within the ambit of culpable homicide not amounting to murder under Section 304(ii) of IPC or not, has to be decided only after proper appreciation of substantive evidence by the trial court and this Court cannot conduct roving enquiry while exercising its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise all the defence before the trial Court and the Trial Court may frame



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necessary charges for the alleged negligence on the part of the petitioner

and find out whether the offence of culpable homicide not amounting to murder is attracted or not. If the Trial Court is of the view that the offence under Section 304(ii) will not be a chargeable offence, the Trial Court may, on the materials and the evidence, frame appropriate charges under other sections of IPC, and proceed for trial.

6. Such view of the matter, this Court is of the view there is no merit to quash the charge-sheet and accordingly, this petition stands dismissed. Consequently, connected miscellaneous petition stands closed.

15.09.2025

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Neutral Citation: Yes/No



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1. The XVIIth Additional Judge, City Civil Court, Chennai
2. The Inspector of Police
F-3, Police Station, Nungambakkam
Chennai
3. The Public Prosecutor,
High Court of Madras.

N. SATHISH KUMAR, J.



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