HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4369 of 2025

Mehar Chand Awana And 4 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Prakash Chandra Srivastava, Uma Nath Pandey
Counsel for Opposite Party(s)	:	Ayush Mishra, G.A., Yogendra Misra

Court No. - 92

HON'BLE SUBHASH VIDYARTHI, J.

1. Sri Anand Kumar Shukla, Advocate, holding brief of Sri Prakash Chandra Srivastava, the learned Senior Counsel for the revisionist, made a request for adjournment of the case on the ground that submissions in the matter will be advanced by Sri Prakash Chandra Srivastava.

2. The Court gave him time to call Sri Prakash Chandra Srivastava. However, after some time, he informed the Court that Prakash Chandra Srivastava has left the Court and has gone away to his home at around 02:35 P.M.

3. The learned counsel for opposite party no.2 has opposed the prayer for adjournment of the case stating that an interim order was passed staying the effect and operation of the impugned order dated 14.07.2025 passed by the learned 1st Additional Sessions Judge, Gautam Buddha Nagar in Sessions Trial No.932 of 2024 (State Vs. Ankit @ Banti and others), whereby the discharge application filed by the revisionists was rejected. The interim order dated 20.08.2025 does not record any reason for passing of the interim order. He has stated that the proceedings are lying stayed since 2025 i.e. for the past more than one year.

4. On 22.09.2025, the learned counsel for the revisionist had prayed for adjournment of the hearing of the case to enable him to file rejoinder affidavit. Thereafter, the rejoinder affidavit was not filed within the aforesaid period and it was ultimately filed on 04.05.2026.

5. In these circumstances, the request for adjournment of the hearing is turned down and the Court proceeds to decide the revision after perusing the record with the assistance of learned A.G.A. as well as learned counsel for opposite party no.2.

6. The aforesaid case was instituted on the basis of an FIR lodged by the opposite party no.2 on 06.05.2024 against the revisionists stating that the complainant/ opposite party no.2 is brother of revisionists no.1. All the accused persons had assaulted and beaten up the complainant's son Devendra Awana in the night of 02.05.2024. The FIR states that the revisionist no.1 Mehar Chandra Awana had pushed the complainant's son on the ground and was catching hold of one of his hands. His other hand was caught by revisionist no.2 Ankit. Surendra and Jagdish, Managers of Guest House of Meher Chandra Awana, were standing on the legs of Devendra Awana and was beating him with stick. Mehar Chandra Awana exhorted his elder son Amit to strangulate the complainant's son, whereupon Amit tried to strangulate the complainant's son due to which he started struggling and vomiting. Somehow, the complainant saved his son. The FIR mentions that his clothes had got torn and he was bleeding. The complainant took him to Vinayak Hospital in Noida, where he was admitted. The MLC form prepared by Vinayak Hospital records that the patient Devendra Awana was brought to the Hospital at 1:30 A.M. on 03.05.2024 and he was admitted at 02:04 A.M. on 03.05.2024 with a complaint of physical assault by his uncle's family. He complained of breathing difficulty. He informed having met with an accident on 03.05.2024 at 01:00 A.M. He was admitted to the hospital on 03.05.2024 at 02:04 A.M. The MLC form records complaint of breathing difficulty with pain over back and over all body with right knee, chest, abdomen and both upper limbs and lower limbs and also groin region. The MLC form specifically mentions that "there was no history of vomiting". It records multiple superficial abrasions over both upper and lower limbs, abdomen, chest and brushes over back, abdomen, chest and both upper limbs and lower limbs. It mentions that the patient had reached the hospital by himself.

7. The Investigating Officer recorded the statement of Dr. Saurabh Chaudhary, M.D. working in Vinayak Hospital, who stated that the

patient was brought to Vinayak Hospital on 03.05.2024 in a serious condition. He was admitted to emergency ward and shifted to I.C.U., where medico legal certificate was prepared by Dr. Pintu, who was a member of team of Dr. Saurabh Chaudhary. He stated that the condition of the patient was very serious. There was bluish contusion all over his body. The NCCT Neck Report of the patient mentions muscle spasm and it happens when the neck is pressed severely. He stated that the injuries of the patient were very serious and could have been fatal and the kidneys of the patient had suffered severely due to the injuries. The doctor further stated that there were excessive muscular injuries as the patient had been beaten up badly and had it been done with a weak person, he could have died.

8. After investigation, the Investigating Officer submitted a charge-sheet dated 31.07.2024 and the trial court summoned the revisionists to face the trial. The revisionists filed an application seeking discharge, *inter alia*, stating that the incident allegedly took place on 02.05.2024, the victim was not taken to any Government Hospital but he was taken to Vinayak Hospital, which is owned by the complainant's relative, the discharge summary does not make a mention of any injury which could be said to be serious and the revisionist are entitled to be discharged.

9. The trial court rejected the discharge application by the impugned order dated 14.07.2025 on the ground that the allegations levelled in the FIR and the statement of Dr. Saurabh Chaudhary makes out a *prima facie* case for trial of the revisionists. The trial court omitted to note that the FIR mentions that five accused persons had badly assaulted the complainant's son. Two persons had caught hold of his two hands and two persons were standing on his legs and were badly beating him with a rod and one of the accused persons pressed his neck due to which he started vomiting. The FIR further states that his cloth got torn and he was bleeding. The FIR further states that the time of incident to be 9:30 P.M. on 02.05.2024. The MLC form mentions that the victim was taken to Vinayak Hospital at 1:30 A.M. on 03.05.2024 because he had met with an accident on 03.05.2024 at 01:00 A.M. It subsequently mentions that the patient was having multiple bruises and abrasions over both his upper limbs and lower limbs, abdomen and chest but it does not make any mention of any

bluish contusion. It does not mention any bleeding present over any part of the body. It is specifically mentions that the patient did not give any history of the vomiting. It is highly improbable that a person who is badly hit by stick suffers bruises and abrasions because such injuries cannot be caused by a stick. These injuries could be caused by an accident and the MLC form mentions that the victim had met with an accident at 01:00 A.M. on 03.05.2024, although it also mentions assault by uncle's family. The injuries recorded namely bruises and abrasions are relatable to an accident but they are not relatable to assault by stick.

10. Although, the patient was treated by Dr. Saurabh Chaudhary but the Investigating Officer has not recorded the statement of Dr. Pintu Kumar. Instead, he has recorded the statement of Dr. Saurabh Chaudhary, who stated that the MLC form of the patient had been prepared by Dr. Pintu Kumar and there were bluish contusion marks on the entire body of the patient, whereas the MLC form prepared by Dr. Pintu Kumar does not mention any bluish contusion on any part of his body.

11. Dr. Saurabh Chaudhary further stated that the NCCT Neck Report mentions muscle spasm and it is caused by an attempt to strangulate the person. However, the NCCT Neck Report mentions "strengthening of cervical spine is likely due to muscle spared" and it does not mention muscle spasm in neck.

12. Mentioning of "strengthening of cervical spine" likely due to muscle spasm cannot be read as muscle spasm caused by strangulation of neck. Apparently, Dr. Saurabh Chaudhary has given a statement which is false on the face of the record of Vinayak Hospital, including the MLC form and the NCCT Neck Report and the reason for the false statement is apparent i.e. to give undue benefit to the complainant and the victim and to falsely implicate the revisionists.

13. The conduct of Dr. Saurabh Chaudhary of the Vinayak Hospital, Sector 27, Noida *prima facie* makes out a case of professional misconduct committed by him. However, the Court is not an expert which can record a conclusive finding about any professional misconduct committed by a doctor and it is a job to be performed by the experts of the Medical

Council of India.

14. The trial court has merely accepted the statement of Dr. Saurabh Chaudhary without taking care to go through the MLC form and the NCCT Neck Report which falsify the statement of Dr. Saurabh Chaudhary and it vitiates the order of the trial court.

15. In view of the forgoing discussion, I am of the view that the impugned order dated 14.07.2025, passed by the learned Ist Additional Sessions Judge, Gautam Buddha Nagar in Sessions Trial No.932 of 2024 is unsustainable in law.

16. Keeping in view the forgoing discussion, the revision is **allowed**. The impugned order dated 14.07.2025, passed by the learned Ist Additional Sessions Judge, Gautam Buddha Nagar in Sessions Trial No.932 of 2024 (State Vs. Ankit @ Banti and others) is quashed. The matter is remanded to the trial court to decide the discharge application afresh, keeping in view the observations made in this order.

17. The **Registrar (Compliance)** of this Court is directed to send a copy of this order along with MLC form and NCCT Neck Report of patient Devendra Aawana, annexed at page no.106 to 109 of the paper-book and the statement of Dr. Saurabh Chaudhary recorded by the Investigating Officer (annexed at page 98-99 of the paper-book) to the Medical Council of India. The Medical Council of India shall look into the matter and institute an inquiry and take appropriate action in accordance with law, after affording an opportunity of hearing to Dr. Saurabh Chaudhary.

(Subhash Vidyarthi,J.)

November 2, 2026
CS/-

Digitally signed by :-
CHANDAN SINGH
High Court of Judicature at Allahabad