HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S. B. Criminal Miscellaneous Petition No. 1962/2010

Dr. Vinay Suren D/o. Late Hans D. Roy, r/o. Sevayatan Hospital, Ajmer Road, Sodala, Jaipur (Raj.)

----Accused/Petitioner

Versus

1. The State of Rajasthan through Public Prosecutor.

----Non-Petitioner

2. Dinesh R. Mehta S/o. Shri Roop Shankar Mehta, r/o Mahadev Nagar, Gandhi Path, Vaishali Nagar, Jaipur (Now deceased).
2/1. Vikas Mehta S/o. Late Shri Dinesh R. Mehta r/o. 10, Mahadev Nagar, Gandhi Path, Vaishali Nagar, Jaipur (Raj.)-302021.

----Non-Petitioner-Complainant

For Petitioner	:	Mr. A.K. Gupta, Senior Advocate assisted by Mr. Rinesh Gupta Advocate, Mr. Saurabh Pratap Singh Chouhan Advocate, Mr. Pulkit Advocate, Mr. Gaurav Sharma Advocate, Mr. Samat Alam Advocate & Mr. Ashutosh Singh Naruka Advocate.
For Respondent No. 1	:	Mr. Vivek Sharma, Public Prosecutor.
For Respondent No. 2	:	Mr. Anshuman Saxena Advocate with Mr. Divyansh Saini Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

REPORTABLE

RESERVED ON	**::**	**15.10.2025**
PRONOUNCED ON	**::**	**__.10.2025**

1. By way of filing this criminal misc. petition, the petitioner has prayed for quashing FIR No. 25/2007 registered at Police Station Sodala, District Jaipur for commission of offence punishable under Section 304-A of the Indian Penal Code; order dated 16.10.2008 passed by the Court of Additional Civil Judge (JD) & Judicial Magistrate, First Class, No. 16, Jaipur City, Jaipur

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(hereinafter to be referred as 'the trial court'), whereby, file of the case/negative final report was returned for filing of challan; cognizance order dated 20.10.2008, order dated 15.06.2009 passed by the trial court whereby charges for commission of offences under Section 304-A and 420 IPC were framed against the petitioner and order dated 28.06.2010 passed by the Court of Additional Sessions Judge No. 8, Jaipur City, Jaipur (hereinafter to be referred as 'the revisional court') whereby revision petition filed by the petitioner was dismissed.

2. It is stated that FIR No. 25/2007 was lodged by Respondent No. 2-complainant, Dinesh Mehta alleging therein that his daughter-in-law, Smt. Sonal Mehta, who had conceived, was undergoing treatment under supervision of the petitioner and continued to take her guidance during her first pregnancy. On 17.01.2007, when the labour pains were experienced by his daughter-in-law, she was got admitted by the complainant in Sevayatan Hospital, Jaipur and was subjected to necessary investigations. After examining the reports of the investigations, it was assured by the petitioner that it would be a normal delivery of the child. Next day, at around 10.00 A.M., the petitioner left for Ajmer leaving complainant's daughter-in-law at the mercy of unskilled employees and at around 11.30 A.M., on 18.01.20074, the child died on account of strucking cord around his neck. It was submitted that had the delivery been conducted by the skilled person/medical expert, the child could have been saved and he died only on account of grave negligence of the petitioner and employees of the hospital.

3. It was further submitted that after lodging FIR, investigation was conducted by the police authorities and as no cognizable offence was found to be proved against the petitioner, hence, negative final report was submitted by the SHO, Police Station Sodala, District Jaipur on 14.12.2007.

4. After filing of negative final report, the complainant continued to seek time to file protest petition. However, the same was never filed by the complainant. In the meanwhile, one application was filed by the investigating officer mentioning therein that although negative final report was filed after investigation, yet in the meanwhile, file of the Circle Office was called by CID(CB), Rajasthan, which conducted further investigation and took a decision to file charge sheet in the matter. Hence, permission was sought to return the file/case diary for filing charge sheet in the matter in accordance with the directions of CID(CB). On such application dated 10.10.2008, the trial court passed order dated 16.10.2008, which reveals that the application for return of case diary on account of investigation conducted by CID(CB), which was not opposed by the complainant, was allowed and the case diary was returned by the trial court with liberty to file charge sheet. Thereafter, charge sheet was filed and cognizance for commission of offences punishable under Sections 304-A and 420 IPC was taken and process was issued against the petitioner by the trial court vide its order dated 20.10.2008.

5. Thereafter, arguments on charge were heard by the trial court and on 15.06.2009, charges were framed against the

petitioner for commission of offences punishable under Sections 304-A and 420 IPC.

6. Shri A.K. Gupta, learned Senior Counsel appearing for the petitioner submitted that bare perusal of the FIR would reveal that there are no allegations of committing medical negligence against the petitioner and the only allegation was that instead of conducting delivery process herself, the petitioner left for Ajmer. There is no iota of allegation with regard to causing any inducement with intend to further cause undue loss to the complainant or to have any undue gain. Hence, bare perusal of contents of FIR would not reveal commission of any cognizanble offence against the petitioner.

7. Learned Senior Counsel further submitted that even otherwise, allegations levelled in FIR were duly investigated by the police authorities and after examining the cause of death of the child as well as the process undertaken for delivery of complainant's daughter-in-law, the investigating officer came to the conclusion that no negligence was caused in treatment of complainant's daughter-in-law.

8. It is further submitted that after filing of negative final report, an unusual process was adopted and while the negative final report was under consideration of the trial court, without seeking any permission from the court, re-investigation was got conducted through CID(CB) and a decision was taken to file a charge sheet in the matter. Learned Senior Counsel emphasised that such process is totally foreign to the procedure contemplated under the provisions of the Code of Criminal Procedure, 1973

(hereinafter to be referred as 'Cr.P.C.'), yet, in a quite illegal manner, negative final report/case diary was returned by the trial court vide order dated 16.10.2008 and on filing charge sheet, within a period of four days thereafter, without there being any proper application of mind over the facts of the case and material on record, cognizance was taken by the trial court on 20.10.2008. Thereafter, in a quite mechanical manner, without analysing the material on record, charges for commission of offences punishable under Sections 304-A and 420 IPC were framed by the trial court against the petitioner vide order dated 15.06.209.

9. Learned Senior Counsel submitted that thereafter, criminal revision petition was filed by the petitioner against the order of framing charges pointing out that after filing negative final report, the investigating authorities became *functus officio* and could not have conducted re-investigation through any agency without permission of the court. It was also pointed out before the revisional court that the trlal court committed serious error of law and jurisdiction by returning the file along with negative final report for the purpose of filing of charge sheet and such illegal process has caused miscarriage of justice and grave prejudice to the petitioner.

10. Learned Senior Counsel further submitted that it was a case of alleged medical negligence and even the officers of CID(CB) had no medical expertise. Therefore, without there being any proper examination by the medical experts and without obtaining any report in respect of delivery process of complainant's daughter-in-law, the petitioner could not have been prosecuted. It was

submitted that in the final report, the petitioner was not found guilty even by the medical experts.

11. Learned Senior Counsel relied upon the decision of the Hon'ble Supreme Court in the case of **Jacob Mathew Vs. State of Punjab & Another, (2005) 6 SCC 1**, in order to show that in the cases of medical negligence, prosecution of the doctors without there being report of medical board was deprecated by the Hon'ble Supreme Court and even the guidelines were laid down for conducting process in the all the cases where there is complaint with regard to medical negligence against any medical officer. Learned Senior Counsel vehemently argued that in the instant case, even the charge sheet was filed in total ignorance of the guidelines laid down by the Hon'ble Supreme Court in the case of **Jacob Mathew (supra)** and further, orders of taking cognizance as well as framing charges have perpetuated the illegality already committed by the investigating agency. In the light of aforesaid submissions, learned Senior Counsel prayed for quashing of FIR, order of returning case diary for the purpose of filing challan, order of taking cognizance and order of framing charges against the petitioner by the trial court as also the order passed by the revisional court, dismissing the revision petition of the petitioner.

12. Learned Public Prosecutor as well as learned counsel for Respondent No. 2-complainant seriously opposed the petition filed by the accused-petitioner by submitting that the entire process has been conducted by the investigation authority/prosecution agency strictly in accordance with the provisions of Cr.P.C. and the courts below have also not committed any mistake whatsoever either in

taking cognizance or framing charges against the petitioner or in dismissing the revision petition filed by the petitioner.

13. It was submitted that earlier without properly investigating the facts of the case and material on record as well as without awaiting for the report of the competent authority in the matter of medical negligence committed by the petitioner, on the basis of incomplete investigation, negative final report was proposed by the police authorities on 14.12.2007. Aggrieved by the incomplete investigation, an application was moved by the complainant before the higher authorities, which was duly entertained and directions were given to CID(CB) for conducting further investigation in the matter on the basis of file available in the office of Circle Officer, which was exact replica of the file placed before the trial court along with negative final report. Learned counsel for the respondents pointed out that Sections 173(3) Cr.P.C. and 173(8) Cr.P.C. confer rights upon the investigating agency to conduct further investigation irrespective of the fact that a report has already been filed before the Magistrate and on the basis of further investigation, further reports along with additional evidence can be filed before the Magistrate. In the instant case, after proposing the negative final report by the police authorities, during further investigation, it was found by CID(CB) that a parallel complaint lodged by the complainant before the Rajasthan Medical Council was examined by as many as eight medical experts and a report was given on 18.08.2008 by Rajasthan Medical Council to the effect that after going through the record and screening of complaint, explanation of concerned doctors and opinion of

Gynecologist, members of the medical board were of the view that there was poor clinical judgment and carelessness on the part of the doctors concerned. Rajasthan Medical Council unanimously agreed with the opinion of the Penal and Ethical Committee and decided that both the doctors be warned to be careful in future. It was also pointed out that the petitioner is an Anesthetist and not a Gynecologist. Further, quite deceptively, the petitioner had shown herself as expert in Gynecology, without possessing any legitimate degree in Gynecology. Thus, by showing herself to be an expert Gynecologist, the petitioner had induced complainant's daughter-in-law to get her treatment. However, being unskilled, the petitioner treated daughter-in-law of the complainant and also got the delivery done by other unskilled persons without following the authentic process, which ultimately caused death of newly born child. It was also submitted that during further investigation, it was also considered by the CID(CB) that one more complaint was lodged against the petitioner in the Department of Obstetrics and Gynecology, SMS Medical College, Jaipur and the report of SMS Medical College submitted by three professors and Head of the Department in the relevant field suggested that treatment was not done in proper manner and ultra sonography was not conducted at the relevant time. Even the foetal monitoring facility was not there in the hospital and a good USG by specialist could have accurately diagnosed the cord around the neck of the child. Thus, quite rightly, after conducting further investigation, decision was taken to file charge sheet against the petitioner and to withdraw the earlier negative final report.

14. It was further submitted that as sufficient material was available along with the charge sheet filed later on, which contained report of the medical experts also, the trial court committed no mistake in taking cognizance against the petitioner for committing offence punishable under Sections 304-A and 420 IPC.

15. It was further submitted that before framing charges, due opportunity was afforded to the petitioner and order dated 15.06.2009 passed by the trial court framing charges against the petitioner would reveal that the trial court has examined the entire material including the report of medical experts and only thereafter, decision was taken to frame charges against the petitioner. It was further submitted that the revisional court, after examining the entire material, came to the conclusion that no jurisdictional error or material illegality/irregularity has been committed by the trial court in framing the charges against the petitioner and the revision petition has rightly been dismissed by the revisional court. The petitioner has utterly failed to point out any material perversity, error or jurisdiction in order dated 28.06.2010 passed by the revisional court. Learned counsel for the complainant, in support of his arguments, relied upon the decision of this Court in the case of **Mukum Singh & Others Vs. State of Rajasthan, 2011 Supreme (Raj) 1247**.

16. I have heard rival contentions made by learned counsels for the parties and meticulously examined the record.

17. First question which arises for consideration of this Court is as to whether after filing negative final report and without there being any protest petition by the complainant, on application filed

by the investigating officer, the trial court was having power to return the file/negative final report for the purpose of filing charge sheet against the petitioner or not?

18. As per Section 173(3) Cr.P.C., the superior officer of police, pending the orders of the Magistrate, can direct officer-in-charge of the police station to make further investigation and Section 173(8) Cr.P.C. specifies that despite submitting a final report, the investigating agency cannot be precluded from conducting further investigation and in case any further evidence is found, the same can be filed before the Magistrate with the further report.

19. In the case of **Mukum Singh & Others (supra)**, relevant facts were that negative final report was pending consideration before the Magistrate and an application was filed by the Deputy Superintendent of Police revealing therein that the matter was entrustd to CID(CB) for investigation and, therefore, a request was made to return the negative final report and the Magistrate returned the negative final report. Thereafter, the charge sheet was filed, cognizance was taken and charges were framed against the accused in that case. This Court examined the provisions of Section 173(8) Cr.P.C. along with Section 210 Cr.P.C. and relying upon the decision of the Hon'ble Supreme Court in the case of **Ramchandra Vs. R. Udhayakumar & Others, (2008) 5 SCC 413** held that even if a negative final report was forward to the Magistrate, there is no bar in Cr.P.C. on further investigation of the matter and since the decision to further investigate the matter was taken by the investigating agency itself, there was no

requirement for order of the Magistrate. Para nos. 5, 6, 11, 14, 15, 18 and 19 of the above judgment of **Mukum Singh & Others (supra)** being relevant are reproduced hereunder:

"5. A bare perusal of above provision goes to show that after a report under sub-section (2) has been forwarded to the Magistrate, there is no bar on the investigating officer to further investigation the matter. There is no dispute about the above legal proposition, but the learned counsel for the petitioners has submitted that fresh investigation could not be ordered, but in the present case, the learned trial Court vide its order dated 3.7.2009 has not ordered for any further investigation but on the contrary, Ex. 1 the application which was presented before the Magistrate by Deputy Superintendent of Police on 30.3.2009 goes to show that the CID (CB) was already investigating the matter since 10.8.2007 and hence the trial Magistrate has not ordered any investigation. The learned counsel for the petitioners has relied upon the judgment reported in the case of Ramchandra vs. R. Udhayakumar and others (2008) 5 SCC 413) wherein it has been held as under:-

"Instead of fresh investigation there can be further investigation if required under Section 173(8) Cr.P.C. The same can be done by CB CID as directed by the High Court. From a plain reading of Section 173 Cr.P.C. it is evident that even after completion of investigation under Section 173(2) Cr.P.C., the police has right to further investigate under sub-section (8) but not fresh investigation or reinvestigation."

6. It goes to show that under Section 173(8), the police has right to further investigate the matter and further means additional or supplementary.

11. There is no dispute about the above legal proposition but, in the present case, the Magistrate had not ordered for any investigation by the police. As already stated above that the investigation was pending under Section 173(8) and for which investigating officer was competent.

14. By order dated 3.7.2009, the trial court has not ordered for any investigation. It is not in dispute that the matter was pending before the Magistrate under Section 202 and at that stage, application has been presented before the trial court by the investigating officer and then the trial court acted in accordance with the provisions of Section 210, Cr.P.C. Section 210(1), Cr.P.C. Reads as under:-

"210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.- (1) When in a case instituted otherwise than on a police report (herein referred to as a complaint case); it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation."

> *15. The above provision goes to show that when a matter is pending before the Magistrate for enquiry and for the same offence, the matter is also pending under investigation, the Magistrate shall stay the proceedings. In the present case, when the matter was pending under enquiry before the Magistrate, the investigating officer has submitted application dated 30.3.2009 which is presented before this Court as Annex. 1 and then the Magistrate has rightly stayed the enquiry and waited for the investigating officer to file report and when after investigation, a charge-sheet has been filed by the investigating officer, the matter has been committed to the competent court and there seems to be no illegality or perverseness in the above proceedings.*
>
> *18. Looking at the above, it is clear that the petitioners have not objected at the time of taking cognizance and at the time of framing charge and now on this account only, these objections are liable to be rejected.*
>
> *19. Hence looking at the above, there is no infirmity in the proceedings pending before the court of Special Sessions Judge (SC/ST) Cases, Pali in Criminal Case No. 4/2010 and the present petition is liable to be dismissed."*

20. Thus, in view of above, it is clear that in the present case also the trial court has committed no mistake in returning the negative final report to the investigating agency and to allow filing of the charge sheet on discovery of new evidence during further investigation. Such process adopted either by the investigating agency or by the trial court is neither erroneous, nor illegal.

21. As regards argument raised on behalf o f the petitioner that the FIR does not contain any allegations of medical negligence or of cheating, suffice to observe that it is settled proposition of law that FIR is not an encyclopedia and should be read with the material collected by the investigating agency during investigation. In the instant case, during further investigation, it is found that the petitioner was not a qualified Gynecologist and deceptively shown herself to be an expert Gynecologist so as to induce the innocent pregnant women to get themselves treated by her during their pregnancy and for delivery of the child as well. It has also been found that there were no technical experts or facility of sonography

in hospital to conduct sonography of pregnant lady, which was a serious lapse as the position of foetus could be properly detected only through such technical facilities by the technical experts. It was also found that even there were serious lapses on the part of the petitioner. Therefore, merely the fact that FIR did not contain specific allegations constituting medical negligence or cheating, but after further investigation, there was sufficient material to infer that such offences have been committed by the petitioner, only on account of mere lack of proper words in the FIR, the same cannot be quashed by this Court.

22. Another limb of argument developed on behalf of the petitioner was that guidelines issued by the Hon'ble Supreme Court in the case of **Jacob Mathew (supra)** have not been followed and without there being any report of medical expert, prosecution has been launched against the petitioner. Para No. 48, 50, 51 and 52 of the aforesaid decision, being relevant, are quoted hereinbelow:

> *"**48.** We sum up our conclusions as under:*
>
> *(1) Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. The definition of negligence as given in Law of Torts, Ratanlal & Dhirajlal (edited by Justice G.P. Singh), referred to hereinabove, holds good. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence are three: "duty", "breach" and "resulting damage".*
>
> *(2) Negligence in the context of the medical profession necessarily calls for a treatment with a difference. To infer rashness or negligence on the part of a professional, in particular a doctor, additional considerations apply. A case of occupational negligence is different from one of professional negligence. A simple lack of care, an error of judgment or an accident, is not proof of negligence on the part of a medical professional. So long as a doctor follows a practice acceptable to the medical profession of that day, he cannot be held liable for negligence merely because a better alternative course or method of treatment was also available or simply because a*

more skilled doctor would not have chosen to follow or resort to that practice or procedure which the accused followed. When it comes to the failure of taking precautions, what has to be seen is whether those precautions were taken which the ordinary experience of men has found to be sufficient; a failure to use special or extraordinary precautions which might have prevented the particular happening cannot be the standard for judging the alleged negligence. So also, the standard of care, while assessing the practice as adopted, is judged in the light of knowledge available at the time of the incident, and not at the date of trial. Similarly, when the charge of negligence arises out of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that particular time (that is, the time of the incident) at which it is suggested it should have been used.

(3) A professional may be held liable for negligence on one of the two findings: either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess. The standard to be applied for judging, whether the person charged has been negligent or not, would be that of an ordinary competent person exercising ordinary skill in that profession. It is not possible for every professional to possess the highest level of expertise or skills in that branch which he practices. A highly skilled professional may be possessed of better qualities, but that cannot be made the basis or the yardstick for judging the performance of the professional proceeded against on indictment of negligence.

*(4) The test for determining medical negligence as laid down in Bolam v. Friern Hospital Management Comittee, case (1957) 1 WLR 582, WLR at p. 586 [**Ed.**: Also at All ER p. 121 D-F and set out in para 19, p. 19 herein.] holds good in its applicability in India.*

(5) The jurisprudential concept of negligence differs in civil and criminal law. What may be negligence in civil law may not necessarily be negligence in criminal law. For negligence to amount to an offence, the element of mens rea must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution.

(6) The word "gross" has not been used in Section 304-A IPC, yet it is settled that in criminal law negligence or recklessness, to be so held, must be of such a high degree as to be "gross". The expression "rash or negligent act" as occurring in Section 304-A IPC has to be read as qualified by the word "grossly".

(7) To prosecute a medical professional for negligence under criminal law it must be shown that the accused did something or failed to do something which in the given facts and circumstances no medical professional in his ordinary senses and prudence would have done or failed to do. The hazard taken by the accused doctor should be of such a nature that the injury which resulted was most likely imminent.

(8) Res ipsa loquitur is only a rule of evidence and operates in the domain of civil law, specially in cases of torts and helps in determining the onus of proof in actions relating to negligence. It cannot be pressed in service for determining per se the liability for negligence within the domain of criminal law. Res ipsa loquitur has, if at all, a limited application in trial on a charge of criminal negligence.

50. *As we have noticed hereinabove that the cases of doctors (surgeons and physicians) being subjected to criminal prosecution are on an increase. Sometimes such prosecutions are filed by private complainants and sometimes by the police on an FIR being lodged and cognizance taken. The investigating officer and the private complainant cannot always be supposed to have knowledge of medical science so as to determine whether the act of the accused medical professional amounts to a rash or negligent act within the domain of criminal law under Section 304-A IPC. The criminal process once initiated subjects the medical professional to serious embarrassment and sometimes harassment. He has to seek bail to escape arrest, which may or may not be granted to him. At the end he may be exonerated by acquittal or discharge but the loss which he has suffered to his reputation cannot be compensated by any standards.*

51. *We may not be understood as holding that doctors can never be prosecuted for an offence of which rashness or negligence is an essential ingredient. All that we are doing is to emphasise the need for care and caution in the interest of society; for, the service which the medical profession renders to human beings is probably the noblest of all, and hence there is a need for protecting doctors from frivolous or unjust prosecutions. Many a complainant prefer recourse to criminal process as a tool for pressurising the medical professional for extracting uncalled for or unjust compensation. Such malicious proceedings have to be guarded against.*

52. *Statutory rules or executive instructions incorporating certain guidelines need to be framed and issued by the Government of India and/or the State Governments in consultation with the Medical Council of India. So long as it is not done, we propose to lay down certain guidelines for the future which should govern the prosecution of doctors for offences of which criminal rashness or criminal negligence is an ingredient. A private complaint may not be entertained unless the complainant has produced prima facie evidence before the court in the form of a credible opinion given by another competent doctor to support the charge of rashness or negligence on the part of the accused doctor. The investigating officer should, before proceeding against the doctor accused of rash or negligent act or omission, obtain an independent and competent medical opinion preferably from a doctor in government service, qualified in that branch of medical practice who can normally be expected to give an impartial and unbiased opinion applying the Bolam test to the facts collected in the investigation. A doctor accused of rashness or negligence, may not be arrested in a routine manner (simply because a charge has been levelled against him). Unless his arrest is necessary for furthering the investigation or for collecting evidence or unless the investigating officer feels satisfied that the doctor proceeded against would not make himself available to face the prosecution unless arrested, the arrest may be withheld."*

23. Meticulous examination of the aforesaid decision would reveal that a medical professional can be held liable for negligence in the cases where he does not possess requisite skill, which he professed to have possessed or, he did not exercise with reasonable competence in the given case, the skill which he did possess. The Hon'ble Supreme Court has also clearly observed that the investigating officer and the private complainant cannot always be supposed to have knowledge of medical science so as to determine whether the act of accused medical professional amounts to rash and negligent act within the domain of criminal law under Section 304-A IPC. Hence, Hon'ble Supreme Court directed that report of medical experts in such cases is necessary for prosecuting the medical professional.

24. In the instant case, as referred to hereinabove, during furher investigation, CID(CB)/the investigating agency has taken into account the reports given by Rajasthan Medical Council as well as Department of Obstetrics and Gynecology, SMS Medical College, Jaipur. Therefore, it cannot be said that any of the guidelines laid down by the Hon'ble Supreme Court in the case of **Jacob Mathew (supra)** has been violated in the instant case either by the investigating agency or by the trial court.

25. This Court is conscious of the settled legal position that the inherent powers under Section 482 Cr.P.C. are to be exercised with great caution and only in exceptional circumstances, where the material on record clearly discloses an abuse of the process of law or a grave miscarriage of justice resulting from failure to adhere to

due process either by the investigating agency or by the concerned court. However, upon a careful examination of the entire record, this Court does not find any such illegality, irregularity or perversity warranting interference in exercise of its inherent jurisdiction under Section 482 Cr.P.C.

26. Accordingly, the present criminal miscellaneous petition is devoid of merit and is hereby dismissed.

27. However, it is made clear that this Court has not made any comments so as to affect the trial of the case against the petitioner and the observations made by this Court are confined to the scope of exercise of inherent jurisdiction under Section 482 Cr.P.C. and not for either influencing or affecting the trial of the case.

(ANAND SHARMA),J

MANOJ NARWANI /