



CRM-M-56222-2024 (O&amp;M)

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

01

CRM-M-56222-2024 (O&amp;M)

Reserved on: 21.05.2026

Pronounced on: 05.06.2026

ROHIT LALIT

..... PETITIONER

VERSUS

SOURABH CHABBRA

..... RESPONDENT

**CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH**

Present : Mr. Viren Jain, Advocate,  
for the petitioner.

Mr. Nishant Bharihoke, Advocate &  
Mr. Rujhan Dhawan, Advocate  
for the respondent.

\*\*\*\*\*

**SURYA PARTAP SINGH. J.**

1. This is a petition under Section 528 of the 'Bharatiya Nagarik Suraksha Sanhita, 2023', (erstwhile corresponding provision 482 Cr.P.C). By virtue of present petition the quashing of a criminal complaint bearing No.COMI 492-2023 CNR No.HRGR031751162023 titled as "Sourabh Chhabra versus Dr. Rohit Lalit" alongwith the summoning order dated 04.09.2024 passed in the above-mentioned complaint has been sought to be quashed. The above-mentioned complaint is pending in the Court of learned Judicial



CRM-M-56222-2024 (O&M)

-2-

Magistrate 1<sup>st</sup> Class, Gurugram, hereinafter being referred to as 'trial Court' only. The allegations in the above-mentioned complaint against the petitioner/accused, hereinafter being referred to as petitioner only, are for the commission of offence punishable under Section 304A IPC.

2. Briefly stating the facts emerging from record are that the respondent/complainant, hereinafter being referred to as respondent only, has filed a complaint before the learned trial Court, alleging therein that:-

“due to gross medical negligence committed by the petitioner/accused, hereinafter being referred to as petitioner only, the 22 year old sister of the respondent namely 'Simran Chhabra' died on 21.01.2023, and therefore, the petitioner is liable to face prosecution for the commission of offence punishable under Sections 193/201/304/304A/406/420/467/506/120B of IPC.

that the petitioner is running a hospital in the name of 'Jagdamba Hospital', and that 'Simran Chhabra' the sister of respondent hereinafter being referred to as 'deceased' only, had visited the above-mentioned hospital of petitioner on 21.01.2023, as she was suffering from fever, cough and body pain. According to respondent when his sister was undergoing treatment in the hospital of petitioner, a prescription slip was issued by the petitioner, wherein the same illness were recorded.

that the above-mentioned prescription, dated 21.01.2023, further shows that while undergoing treatment the deceased developed certain complications, perhaps because of allergic reaction to the drug, namely 'Dynapar 75', injected on the instruction of



CRM-M-56222-2024 (O&amp;M)

-3-

petitioner. Since the complication could not be handled by the petitioner, she was shifted to another hospital namely 'Aryan Hospital', Railway Road, Gurugram, but in 'Aryan Hospital', the deceased was declared dead at 01:30 PM. Thereafter 'Aryan Hospital' informed the police, and therefore, the body of deceased was taken for post-mortem examination which was conducted in Civil Hospital, Gurugram on 22.01.2023 and the post-mortem report was prepared by 'Dr. Deepak Mathur' and 'Dr. Sudhir Kumar'.

that a complaint with regard to medical negligence committed by the petitioner was filed by the respondent before the police on 21.01.2023 itself, but no proper investigation was conducted by the police, and thereafter, the matter was escalated to Senior Police Officer, *i.e.* DCP West Gurugram.

that due to persistent demand of petitioner and his family members, against the conduct of the petitioner, the Civil Surgeon, Gurugram referred the complaint preferred by the respondent, against the petitioner, to 'District Medical Negligence Board' and the above-mentioned Board instituted an enquiry on 06.06.2023. The respondent as well as petitioner were called by the 'District Medical Negligence Board' for the purpose of enquiry, and thereafter, the interim enquiry report was prepared by 'District Medical Negligence Board'. In the absence of Viscera analysis, a clean chit was given to the petitioner.



that a bare reading of interim report prepared by ‘District Medical Negligence Board’ show that the Board members simply believed the version of petitioner in verbatim. Since the police did not take any action against the petitioner, the respondent filed a complaint in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram for taking cognizance against the petitioner, conduct the trial, and thereafter, punished the petitioner, accordingly.”

3. According to petitioner, in the above-mentioned complaint, the respondent also moved an application seeking for a direction to the police to register the FIR against the petitioner, by invoking the jurisdiction under Section 156(3) of Cr.P.C. As per petitioner, the above-mentioned application did not find favour of learned trial Court and the same was dismissed vide order dated 28.09.2023. However, the learned trial Court proceeded further to record the preliminary evidence to be adduced by the respondent. It has been further alleged by the petitioner that when the above-mentioned complaint was pending before the learned trial Court on 10.04.2024, the learned trial Court issued a direction for calling a report from PGI, Chandigarh, and thereafter, without waiting for the above-mentioned report issued the impugned order for summoning of the petitioner, as an accused to face trial for the commission of offence punishable under Section 304-A IPC. Aggrieved of the above-mentioned order, hereinafter being referred to as ‘impugned order’, the present petition has been filed.

4. Heard.

5. It has been contended by learned counsel for the petitioner that instant case is the classic example of misuse of process of law by the



respondent, who without any reasonable cause and without any evidence is harassing the petitioner on the ground of medical negligence. According to learned counsel for the petitioner in the present case, the enquiry has been conducted by the 'District Medical Negligence Board' Gurugram, which comprised of six doctors including specialist, and that the above-mentioned 'District Medical Negligence Board' in its report dated 05.02.2024 gave a specific opinion that the petitioner cannot be held negligent with regard to treatment of sister of respondent. According to learned counsel for the petitioner despite the above-mentioned specific finding by the 'District Medical Negligence Board', the learned trial Court merely on the basis of whims and fancies as well as presumptions and assumptions has passed the impugned order for summoning of petitioner, to face trial for the commission of offence under Section 304-A IPC.

6. It has also been contended by learned counsel for the petitioner that in the present case, one of the relevant aspect to be considered is that the findings recorded by the 'District Medical Negligence Board' were also challenged by the respondent by filing a complaint against the members of 'District Medical Negligence Board', who gave the above-mentioned report, but the above-mentioned endeavour of respondent, to harass the members of 'District Medical Negligence Board' has failed in the Court of law and the complaint preferred by the respondent against the Civil Surgeon, Gurugram and members of 'District Medical Negligence Board' has already been dismissed vide order dated 03.06.2025, passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram. According to learned counsel for the petitioner once the report submitted by the 'District Medical Negligence Board' has successfully faced,



the test of judicial scrutiny any complaint contrary to the findings recorded by the above-mentioned 'District Medical Negligence Board' cannot sustain.

7. In addition to above, the learned counsel for the petitioner has also highlighted the defective manner in which the proceedings have been conducted by the learned trial Court. According to learned counsel for the petitioner vide order dated 28.09.2023, the learned trial Court issued a direction that the requisite documents be forwarded to the Director PGI, Chandigarh with a request to assign enquiry to a Board of doctors and submit the report. According to learned counsel for the petitioner, the above-mentioned report was not furnished by PGI, Chandigarh and the learned trial Court in a hasty manner, without waiting for the above-mentioned report passed the impugned order. The learned counsel for the petitioner has further contended that on account of above-mentioned defect also the impugned order is not sustainable.

8. In view of above, it has been contended by learned counsel for the petitioner that *firstly* the learned trial Court has failed to follow its own direction, *secondly* it has failed to appreciate the material available on record including the expert report and *thirdly* it has ignored the settled principles of law, that summoning in a complaint with regard to medical negligence should not be ordered without expert report. According to learned counsel for the petitioner in view of above, the impugned order is not sustainable and deserves to be quashed.

9. The learned counsel for the petitioner in support of his arguments has placed reliance upon the principles of law propounded in the following cases:-



- a) By the Hon'ble Supreme Court of India in the case of 'Jacob Mathew versus State of Punjab and Another' 2005(3) R.C.R. (Criminal) 836.
- b) By the Hon'ble Supreme Court of India in the case of 'Anjana Agnihotri & Another versus State of Haryana & Another.' 2020(2) RCR (Criminal) 83.
- c) By the Hon'ble Supreme Court of India in the case of 'Dr. Suresh Gupta versus Govt. of N.C.T. of Delhi and another', 2004(3) RCR(Criminal) 925.
- d) By the Hon'ble Punjab & Haryana High Court in the case of 'Vijay Kumar Dhawan and Others versus Gurpreet Singh 2026(2) RCR(Criminal) 289.

10. The learned counsel for the respondent has controverted the above-mentioned arguments. According to learned counsel for the respondent the instant case is the classic example of manipulation of record and extending undue favour by the medical fraternity to the petitioner. As per learned counsel for the respondent, the utter negligence in performing his duty by the petitioner writ large on the face of it. According to learned counsel for the respondent in the present case there is no denial of the fact (and otherwise proved from the prescription slip issued by the petitioner) that the ailment for which the deceased visited the hospital of petitioner was a very common and simple ailment, *i.e.* fever, cough and body pain. As per learned counsel for the respondent for such a common disease, for which usually medicines are



prescribed, the prescription for administering Voveran injection could not have been as per prescribed norms of medical science.

11. It has further been contended by learned counsel for the respondent that *firstly* the medicine prescribed by the petitioner (i.e. Voveran injection), in itself speaks about the wrong and negligent act on the part of petitioner and *secondly* the entire record prepared by the petitioner to save his skin makes it abundantly clear that once the medicine was injected and the body of deceased reacted to the medicine, the hospital of the petitioner was not equipped with the requisite facilities to handle such a situation. According to learned counsel for the respondent in fact the chronology of events, the statement of witnesses and other relevant documents goes to show that the medicine was injected by an untrained person without actual and proper supervision of the petitioner and when the complication arose, the same was not properly handle.

12. It has also been contended by learned counsel for the respondent that the misdeeds of the petitioner did not stop at that level only, rather when there was a requirement for shifting of deceased to another hospital there was no arrangement for ambulance and the deceased was shifted in a private small car of a third person. As per learned counsel for the respondent the above-mentioned shifting was without adequate support system. According to learned counsel for the respondent that is why deceased passed away.

13. It has also been contended by learned counsel for the respondent that the petitioner is a person, who resorted to false documentation and while giving a statement before the 'District Medical Negligence Board' the timings of treatment, detailed by the petitioner, did not match with the actual timings of treatment and arrival of deceased at 'Aryan Hospital'. While highlighting the



**CRM-M-56222-2024 (O&M)**

-9-

above-mentioned mismatch, the learned counsel for the respondent has contended that all these crucial aspects have been ignored by the 'District Medical Negligence Board', and thus, the report submitted by 'District Medical Negligence Board' dated 05.02.2024 in itself carries no weight and deserves to be ignored.

14. While defending the impugned order, it has been contended by learned counsel for the respondent that the learned trial Court has passed a detailed and well reasoned order justifying the grounds on which the cognizance against the petitioner has been taken. As per learned counsel for the respondent simply because the petitioner is a well connected person and the medical fraternity is bent upon to help him out, the well reasoned judicial verdict can't be upset/set-aside, merely, on the ground of certain technicalities. In view of above, the learned counsel for the respondent has contended that the present petition is devoid of merit and deserves dismissal.

15. The record has been perused carefully.

16. In the present case, at the very out-set it is pertinent to mention here that there are very specific allegations with regard to medical negligence against the petitioner. However, before arriving at any conclusion this fact cannot be ignored that the best person/body to help the judicial system for arriving at a conclusion, as to whether medical negligence has been committed or not, is the body of experts in the field. In the instant case the above-mentioned expert advice was rendered by the Board comprising of six doctors constituted by Chief Medical Officer, Gurugram. The above-mentioned Medical Board in its report dated 05.02.2024 gave a conclusive opinion as under:-



*“The District Medical Board for Negligence Gurugram is of the considered professional opinion that Dr. Rohit Lalit cannot be held negligent keeping the above facts, circumstances and law of the land into consideration.”*

17. Here it shall not be out of place to mention here that the above-mentioned finding has been challenged by the petitioner by filing a criminal complaint against the Chief Medical Officer/Civil Surgeon, Gurugram and six members of the above-mentioned Board. With regard to above, the respondent filed a complaint in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram. However, the above-mentioned complaint has already been dismissed by learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram vide order dated 03.06.2025. The natural outcome of above-mentioned order passed by learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram, with regard to dismissal of complaint filed by the respondent, leads to a conclusion that till today there is no question mark with regard to validity of the findings recorded by the Board in its report dated 05.02.2024.

18. Be that as it may the most crucial aspect to be noted in the present case is that vide order dated 28.09.2023, the learned trial Court issued the following direction:-

*“but, on the request of counsel for complainant and keeping in view the documents on file, in view the documents of medical treatment of deceased and findings given in report by board, this court is of the considered opinion that, in the interest of justice demands the second opinion be sought from Director PGI Chandigarh.*



*Therefore, copy of this order be sent along with the requisite documents to the Director PGI Chandigarh with a request to assign the enquiry to a board of Doctors to be constituted by the Director and submit the report regarding culpable negligence of treating doctor (if any) in a sealed cover through registered post on the address of this court i.e. Court of Sh. Anil Kumar Yadav, Near SBI Complex, District Court Complex Gurugram on or before the next date i.e. 03.11.2023.”*

19. The subsequent order passed by the learned trial Court in the above-mentioned complaint shows that till 09.05.2024, the above-mentioned report was not received by the learned trial Court. On 09.05.2024, following order was passed by the learned trial Court:-

*“Today the case was fixed for submission of report by SHO. Naresh SI appeared on behalf of SHO and submitted a copy of documents running into 7 pages. Therefore, this set of documents is ordered to be sent to the Director PGI Chandigarh by referring to the correspondence made by PG i.e. letter no. EV(9)PGI-MS/MA-63/2024) dated 03.05.2024. Now to come up on 11.06.2024 for awaiting report from PGI Chandigarh.”*

20. On 09.05.2024, the case was adjourned to 11.06.2024. However on 31.05.2024, the file was taken up by the learned trial Court and the case was adjourned to 07.08.2024. On 07.08.2024 without waiting for the report of PGI, the learned trial Court proceeded to hear arguments, and thereafter, passed the summoning order dated 04.09.2024.



21. The above-mentioned chronology of events, which unfolded during the proceedings of above-mentioned complaint, makes it abundantly clear that there was a direction by the learned trial Court to seek expert report, to be submitted by the expert doctors of PGI Chandigarh, but without waiting for the above-mentioned report, the summoning order has been passed. In my opinion, the above-mentioned procedure adopted by the learned trial Court is in violation of its own direction, and therefore, perverse and contrary to the settled norms of judicial discipline.

22. Another aspect to be noted in the present case is that if there was any difficulty in procuring the report of PGI Chandigarh as ordered on 28.09.2023, the proper course available to the learned trial Court was to recall the above-mentioned order by giving a justification and then proceed further with the above-mentioned complaint. But such procedure was not adopted by the learned trial Court.

23. Taking into consideration the above-mentioned facts and circumstances of the present case, in my considered opinion, the learned trial Court while passing the impugned order has committed an error by ignoring its own order which otherwise was going to help the learned trial Court to arrive at a proper conclusion.

24. Thus, taking into consideration the above-mentioned discussion, it is hereby observed that the impugned order passed by the learned trial Court is not sustainable in the present form. Hence, the impugned order is hereby set aside/quashed. However, a direction is given to the learned trial Court to procure the report of PGI Chandigarh as mandated vide order dated 28.09.2023



CRM-M-56222-2024 (O&amp;M)

-13-

appreciate the same alongwith other material available on record, and pass a fresh order. The present petition stands **allowed**, accordingly.

25. However, before parting ways with the above-mentioned order, it is hereby clarified that any observation recorded in the present order are for the purpose of determining the present petition only and it shall have no bearing while passing fresh order by the learned trial Court.

**(SURYA PARTAP SINGH)**  
**JUDGE**

**05.06.2026.***vipin*

Whether speaking/reasoned : Yes

Whether Reportable : No