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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 23rd OF JUNE, 2026MISC. CRIMINAL CASE No. 2320 of 2016*DR. MANDAVI**Versus**ANISH KHAN*

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Appearance:

Shri Ankit Saxena - Advocate for the petitioner.

None for respondent.

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ORDER

The present petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the applicant seeking quashment of the order dated 26.10.2015 passed by the learned Second Additional Sessions Judge, Tikamgarh in Criminal Revision No.95/2015 whereby the revision preferred by the applicant was dismissed and the order dated 24.04.2015 passed by the learned Chief Judicial Magistrate, Tikamgarh in Criminal Case No.574/2015 taking cognizance upon a private complaint was affirmed.

2. The facts, in brief, are that respondent No.1/complainant Anish Khan filed a private complaint alleging that his wife Jaibun Nisha developed labour pain and was taken to the Government Hospital, Tikamgarh for delivery. It was alleged that one Dr. Rekha Badgaiyan initially attended the patient and, considering her condition serious, advised that an operation was necessary. According to the complainant, the present applicant, Dr. Mandavi, was on



emergency duty and was informed telephonically, but she did not come to the hospital. It was further alleged that thereafter the complainant approached the residence of the applicant where she directed that the patient be taken to Sudha Nursing Home and demanded a sum of Rs.50,000/- for treatment. Upon the complainant expressing inability to arrange the said amount, the demand was allegedly reduced to Rs.5,000/-. When the complainant informed that he had only Rs.2,000/-, the applicant allegedly refused to perform the operation. Thereafter, Dr. Rekha Badgaiyan referred the patient to Medical College, Jhansi. However, while the patient was being taken to Jhansi, she succumbed on the way.

3. The complainant examined himself and his witnesses in support of the complaint. Copies of the complaint and statements recorded under Sections 200 and 202 of the Cr.P.C. were filed as Annexure A/2. Upon consideration of the complaint and preliminary evidence, the learned Chief Judicial Magistrate, Tikamgarh, by order dated 24.04.2015 (Annexure A/3) took cognizance and registered the criminal case against the applicant. Aggrieved by the said order, the applicant preferred Criminal Revision No.95/2015 before the learned Second Additional Sessions Judge, Tikamgarh, which came to be dismissed by order dated 26.10.2015. Hence, the present petition under Section 482 Cr.P.C.

4. Learned counsel for the applicant submitted that the applicant is a Government Medical Officer and was discharging her official duties honestly and diligently. It was argued that the complaint has been filed with *mala fide* intention and the applicant has been falsely implicated. It is further submitted



that the applicant was a public servant and the acts alleged against her were directly connected with the discharge of her official duties. Therefore, in the absence of previous sanction from the competent authority as contemplated under Section 197 Cr.P.C., the learned Magistrate could not have taken cognizance against the applicant.

5. Learned counsel further submitted that no post-mortem report was filed along with the complaint to establish the cause of death of the deceased Jaibun Nisha. It was contended that there is no medical evidence on record to show that the death occurred due to any omission, negligence or refusal attributable to the applicant. It was also argued that the incident is alleged to have occurred on 25.01.2014, whereas the complaint was filed after nearly five months without any satisfactory explanation for such delay, which itself casts serious doubt on the veracity of the allegations. It was additionally submitted that there is no material available on record to indicate that the applicant intentionally refused treatment or deliberately avoided attending the patient.

6. Per contra, learned counsel appearing for the respondent/complainant supported the impugned orders. It was submitted that the complaint as well as the statements recorded during the preliminary inquiry clearly disclose a *prima facie* case against the applicant. It was argued that despite being informed regarding the serious condition of the patient, the applicant failed to attend the Government Hospital and instead insisted upon payment of money before extending medical assistance. Such conduct, if ultimately proved during trial, would constitute gross dereliction of duty and criminal



liability. It was further submitted that the grounds raised by the applicant involve disputed questions of fact which can only be adjudicated upon after evidence is recorded during trial. Therefore, the extraordinary jurisdiction under Section 482 Cr.P.C. ought not to be exercised.

7. Heard learned counsel for the parties and have perused the material available on record.

8. In the present case, the complaint specifically alleges that the deceased was in a critical condition requiring immediate surgical intervention and that the applicant, despite being informed, failed to attend and refused treatment due to non-payment of money. The complainant has reiterated these allegations in his statement and has also produced supporting witnesses during the preliminary inquiry. At this stage, the Court is not required to assess the truthfulness or otherwise of these allegations. The question whether the applicant actually refused treatment, whether any demand of money was made, and whether such conduct had any nexus with the death of the deceased are all matters requiring evidence and adjudication during trial.

9. The contention regarding absence of post-mortem report also does not persuade this Court to exercise inherent jurisdiction. Deficiency in evidence or insufficiency of proof is not a ground for quashing criminal proceedings at the threshold when the complaint otherwise discloses a prima facie case. The evidentiary value of medical documents and other materials can only be examined during trial.

10. So far as the contention regarding delay in filing the complaint is concerned, the same is likewise a matter affecting appreciation of evidence



and credibility of prosecution witnesses. The submission regarding sanction under Section 197 Cr.P.C. also does not warrant interference at this stage. Whether the alleged acts were reasonably connected with discharge of official duties and whether sanction was required are issues which may appropriately be considered by the trial Court upon examination of the nature of allegations and evidence brought on record. At the present stage, it cannot be conclusively held that the allegations, if accepted as true, were acts performed strictly in discharge of official duty so as to render the proceedings non-maintainable.

11. This Court finds that the learned Chief Judicial Magistrate, Tikamgarh considered the complaint, statements recorded during inquiry and the material available on record before taking cognizance vide order dated 24.04.2015 (Annexure A/3). The revisional Court also examined the matter in detail and affirmed the said order by its judgment dated 26.10.2015. No patent illegality, perversity or jurisdictional error is demonstrated warranting interference under Section 482 Cr.P.C.

12. Accordingly, this Court is of the considered opinion that the allegations contained in the complaint and the statements recorded in support thereof disclose a prima facie case requiring adjudication on merits by the trial Court. The disputed questions raised by the applicant cannot be adjudicated in exercise of inherent jurisdiction.

13. Consequently, the present Miscellaneous Criminal Case filed under Section 482 Cr.P.C. being devoid of merit is hereby *dismissed*. The order dated 24.04.2015 passed by the learned Chief Judicial Magistrate, Tikamgarh



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in Criminal Case No.574/2015 (Annexure A/3) and the order dated
26.10.2015 passed by the learned Second Additional Sessions Judge,
Tikamgarh in Criminal Revision No.95/2015 are affirmed.

(HIMANSHU JOSHI)
JUDGE

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