



CRM-M-54295-2024

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

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CRM-M-54295-2024
Decided on:20.08.2025

Dr. Surbhi Yuvraj Nasre

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Rakesh Malhotra, Advocate for the petitioner.

SANJAY VASHISTH, J.

1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of FIR No. 613 dated 28.09.2023, registered under Sections 304-A and 34 of the IPC at Police Station Sadar, District Gurugram, along with all consequential proceedings arising therefrom qua the petitioner.

2. Learned counsel for the petitioner submits that the petitioner is a registered medical practitioner, and based on allegations of medical negligence—relying upon an opinion dated 24.03.2023 (Annexure P-2) issued by a Medical Board—a final report under Section 173 Cr.P.C. (now Section 193 of the BNSS, 2023) was submitted, initiating criminal proceedings against her.

3. It is further submitted that the petitioner challenged the said Medical Board opinion before the Haryana Medical Council, and the Appellate Authority therein concluded that **“no negligence exists on the part of the petitioner.”**



4. Counsel argues that in view of the law laid down by the Hon'ble Supreme Court in **Jacob Mathew vs. State of Punjab & Another**, AIR 2005 SC 3180, to prevent harassment of medical professionals and to protect the dignity of the profession, it is imperative that courts carefully scrutinize the material before proceeding against a doctor.

5. In the present case, the report of the Appellate Authority (Haryana Medical Council) was not included in the final investigation report. Therefore, the learned Magistrate did not have the opportunity to apply judicial mind to that crucial piece of evidence.

6. It is further submitted that the learned Trial Court has summoned the petitioner, though charges are yet to be framed. The petitioner's personal appearance was exempted by the Court vide order dated 14.07.2025, upon request.

7. Learned counsel for the petitioner, Mr. Rakesh Malhotra, also points out that under the statutory provisions of the Cr.P.C. (now BNSS), there exists a mechanism for further/supplementary investigation, and urges that such a course is warranted to ensure a fair and impartial investigation.

8. He relies on the judgment of the Hon'ble Supreme Court in '**Rampal Gautam & Others vs. The State of Mahadevapura Police Station, Bengaluru & Another**', *Criminal Appeal @ SLP (Crl.) No. 7968 of 2016*, particularly Paragraph 12, which affirms that further investigation is permissible even after filing of the charge sheet and



commencement of trial, if it serves the cause of justice. Paragraph 12 reads as under:

“12.At the outset, we may record that a direction to conduct further investigation even after filing of the chargesheet and commencement of the trial is permissible in law as has been held by a catena of judgments of this Court. Reference in this regard may be made to Hasanbhai Valibhai Qureshi v. State of Gujarat and Others wherein, this Court observed that the prime consideration for directing further investigation is to arrive at the truth and to do real substantial justice. The Court further observed that further investigation and re-investigation stand altogether on a different footing. Even de hors any direction from the Court, it is open to the police to conduct a proper investigation notwithstanding the fact that the Court has already taken cognizance on the strength of a police report submitted earlier. However, a caveat was added that before directing such investigation, the Court or the concerned police officer has to apply mind to the material available on record and arrive at a satisfaction that investigation of such allegations is necessary for the just decision of the case.”

9. At this stage, considering the above recorded submissions and other relevant facts, this Court deems it appropriate to dispose of the present petition with the following directions:

i) In case the petitioner moves an application before the learned Trial Court seeking further or supplementary investigation, particularly with respect to the report of the Haryana Medical Council or for any other substantive reason, the same shall be decided expeditiously, preferably within four weeks from the date of filing.



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ii) While deciding such an application, the learned Trial Court shall keep in mind the principles laid down in *Jacob Mathew's case (supra)* and *Rampal Gautam's case (supra)*.

iii) The personal appearance of the petitioner, who is stated to be residing in Nagpur, shall not be insisted upon, solely for the purpose of filing or adjudication of the said application, however, she can be informed to join the proceedings, if further/supplementary investigation is ordered.

10. Disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

August 20, 2025

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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**