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

COCP-3026-2025

Date of decision: 23.09.2025

ATUL KATARIA

..Petitioner

Versus

SHATRUJEET KAPOOR AND ANR

..Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Gaurav Garg Dhuriwala, Advocate  
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

**SUDEEPTI SHARMA, J. (Oral)**

1. The contempt petition has been filed for deliberate and intentional disobedience of order dated 06.03.2025 passed in CRM-M-12607-2025.

2. The relevant para of order dated 06.03.2025, are reproduced as under:-

*“5. After hearing counsel for the parties and perusing the record, the present petition is disposed of within direction to the respondent-investigating agencies to complete the investigation within a month from today as submitted before this Court by taking into consideration the grievance raised by counsel for the petitioner. Petitioner would be at liberty to pursue his remedies in case any further cause of action accrues to him.”*

3. Learned State counsel contends that in compliance of order dated 06.03.2025, affidavit of Mr. Gaurav Rajpurohit, IPS, Deputy



Commissioner of Police, East, Gurugram dated 29.08.2025 has already been filed.

4 The relevant paras of affidavit dated 29.08.2025 are reproduced as under:-

*“6. That comprehensive investigation was conducted wherein all relevant documents including MLC, Post-Mortem Examination of Report and treatment records from Artemis Hospital were obtained. Statements complainant's family members residing abroad were recorded through email communications under Section 161 CrPC as per directions of the LD. Area Magistrate.*

*7. That during course of investigation conducted after the order dated 06.03.2025, the specific grievance regarding nomination of Managing Director of Artemis Medicare Services as accused in the FIR was thoroughly examined. However, investigation revealed that the Managing Director was not directly involved in the treatment of the deceased and no sufficient incriminating evidence found to was establish direct culpability of the Managing Director in the treatment decisions that led to the unfortunate demise.*

*8. That regarding the grievance for addition of offence falling under Section 304-II IPC, the investigation examined whether the private respondents had knowledge that their act was likely to cause death which was an essential ingredient of Section 304-II. Medical opinion was sought from Civil Surgeon, Gurugram who constituted Medical Board for examination of the case. The Medical Board concluded that while there was negligence and ignorance on part of treating doctors, such negligence did not meet the threshold of knowledge of likelihood of causing death required for clamping the provisions of Section 304-II IPC. Further, the report of*



*the board did not justify initiation of criminal proceedings as gross negligence had not been reported by the board, which is the basic requirement to initiate the criminal proceedings against medical practitioner as held by the Hon'ble Supreme Court in Jacob Mathew's case.*

*9. That the investigation specifically examined the petitioner's grievance regarding unqualified doctors being deputed in Emergency Ward. It was found that the doctors treating the deceased were qualified medical practitioners and while they were not post-graduate specialists in Emergency Medicine by way of MD or DNB Degree, they were not unqualified in the legal sense. The head of the Emergency Ward was available for telephonic consultation as per hospital protocols, which is a recognized practice in medical field.*

*10. That the investigation revealed that the Civil Surgeon's report had indicated "ignorance and negligence" by the treating physicians. However, as per the Hon'ble Supreme Court of India's judgement in Jacob Mathew vs State of Punjab and Anr (2005) 6 SCC 1, for attracting criminal liability under Section 304A IPC, there must be "Gross Negligence" or "High Degree of Negligence" which was not established in the present case.*

*11. That the negligence found by the Medical Board constitutes civil negligence falling under tort law rather than criminal negligence required for prosecution under Section 304A IPC. The degree of negligence did not meet the threshold of "gross negligence" as mandated by the Hon'ble Supreme Court in Jacob Mathew case.*

*12. That based on the medical opinion and legal position, concededly, a Cancellation Report was filed on 22.03.2025 before the Court of Ld. JMFC Gurugram after thorough re- investigation as directed by this*



*Hon'ble Court and after taking into consideration all grievances raised by the petitioner's counsel. All aspects raised by the petitioner were duly examined during re-investigation and the legal conclusion was reached based on established precedent of Hon'ble Supreme Court in Jacob Mathew case. Now the proceeding of the cancellation report is fixed for 09.09.2025 before the Ld. Trial Court for the purpose of notice to petitioner.*

*13. That during re-investigation, clarification was sought from the Medical officer who had Conducted the Post-Mortem Examination regarding discrepancy in timing between death and Post-Mortem Examination. The doctor clarified it as clerical error and corrected the timeframe from "1-2 hours" to "1-2 days" in written communication.*

*14. That the investigation has been conducted in accordance with law and procedure taking into consideration all grievances raised by the petitioner. No cognizable offence under criminal law has been established. The case pertains to civil medical negligence which is appropriately adjudicable before civil courts and consumer forums. The petitioner has already initiated proceedings before District Consumer Disputes Redressal Commission, vide Complaint Gurugram vide Complaint Case No.CC/591/2024.”*

5. A perusal of above shows that order dated 06.03.2025 passed in CRM-M-12607-2025, has been complied with. This fact is not disputed by learned counsel for the petitioner.

6. In view of the above, contempt is purged and rule is discharged.

**September 23<sup>rd</sup>, 2025**

*Ayub*

*Whether speaking/reasoned : Yes/No*  
*Whether reportable : Yes/No*

**(SUDEEPTI SHARMA)  
 JUDGE**