

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27653 of 2024

Arising Out of PS. Case No.-1750 Year-2003 Thana- PATNA COMPLAINT CASE District-
Patna

Dr. Mamta Sinha, Wife of Dr. Shalesh Kumar Sinha, Resident of 40 MIG,
Kankarbagh, P.S.- Kankarbagh, Dist- Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Satish Kumar, Son of Harendra Prasad, Resident of Village-Chitragupta
Kitab Ghar, Postal Park, Road No. 1, P.S.- Kankarbagh, Dist- Patna

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For the O.P. No.2	:	Mr. Sanjay Singh, Senior Advocate Mr. Vinod Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT

Date : 25-04-2025

Heard Mr. Ajay Kumar Thakur, learned counsel for
the petitioner, Mr. Navin Kumar Pandey, learned APP for the
State and Mr. Sanjay Singh, learned senior counsel appearing
on behalf of O.P. No.2.

2. The present petitioner preferred under Section
482 of the Criminal Procedure Code (in short 'Cr.P.C.') by the
petitioner for quashing of the order dated 23.02.2024 as
passed by learned Additional Sessions Judge-X, Patna in
Sessions Trial No.440 of 2023 arising out of Complaint Case
No.1750(c) of 2003, whereby the learned trial court has



dismissed the application of discharge filed by the petitioner under Section 227 of the Cr.P.C.

3. The prosecution case, in brief, is that one Satish Kumar (O.P. No.2/complainant) lodged a complaint case stating therein *inter alia* that he is working as a mail man in Railway Mail Services at Patna Railway Station. In the month of June 2000, he was suffering from acute abdominal pain associated with the passing of red-white substances along with urine. It is further alleged that as he was facing difficulty in passing urine, he got himself examined in the dispensary of Central Government Health Scheme at Kankarbagh. He was advised by the doctor posted there for Ultrasonography of the whole abdomen. On 29.08.2000, the ultrasonography was done. According to the said sonographic report, he was found suffering from mild Hepatomegaly and also with mild Benign. In the aforementioned report, his right kidney was found intact and no abnormality around the kidney was found. Further, on the advice of the doctor at Central Government Health Scheme, other pathological examinations were done, where all the reports were found within normal limit.



Thereafter, someone at Central Government Health Scheme recommended the name of accused No.1 namely, Dr. Shailesh Kumar Sinha, where the complainant got himself examined. He was suggested few other pathological examination and medicine was also prescribed to him. The accused No.1 found him suffering from **"Chyluria"**. The accused no.1 confirmed his diagnosis by performing Cystoscopy on 07.09.2000. Subsequently, on the advice of accused No.1, he was operated for his disease namely, **"Chyluria"** on 13.09.2000. In the aforesaid operation, the accused No.1 was accompanied by his team consisting of his wife namely, Mamta Sinha (petitioner), two Assistants, namely, Satyam Kumar and Gaurav Kumar and one anaesthetist. After the operation the complication of the complainant increased, as he started having severe pain in the right side of the abdomen. After which, he was again examined by the accused No.1, who suggested USG of the whole abdomen on 27.09.2000. For the said USG, the accused no.1 personally suggested name of Dr. Rajan Chaudhary, a Radiologist. After the complainant got himself



examined by accused no.5, the report clearly indicated existence of the right kidney of the complainant in its normal size. Further, it is stated that even after all aforesaid examinations, the complications of the complainant kept increasing. After remaining in the hospital of accused no.1 for couple of days, he was discharged but, his complications were not resolved. When the complication kept increasing then, the complainant got himself examined by a physician namely, Dr. Ajay Kumar Sinha, where his treatment underwent for one year but, his condition did not improve. Thereafter, Dr. Ajay Kumar Sinha suspected foul play and suggested the complainant a USG examination of whole abdomen. Since the complainant has scarcity of money, he got himself examined at CGHS, Patna on 20.07.2003. The report of the said examination showed that the right kidney "not seen". After which, the complainant got himself examined at Mahavir Cancer Sansathan, Patna where the report confirmed that his right kidney had been operated and is not visible. Finally, the complainant suspected that the accused persons under conspiracy have dishonestly induced him for an operation,



where his right kidney was removed without his consent, due to which, he is suffering from various medical complications.

4. On the basis of aforesaid complaint, after inquiry and examination of complainant on oath and also the witnesses, learned Jurisdictional Magistrate took cognizance against petitioner for offences punishable under Sections 326, 307, 420, 467 and 471 of IPC. Upon appearance of petitioner after supplying copies as mandate under Section 208 of the Cr.P.C. committed the case before the court of session under Section 209 of the Cr.P.C. for the trial.

5. It is submitted by Mr. Ajay Kumar Thakur, learned counsel appearing for the petitioner that the petitioner is a Gynaecologist by profession and there was no need for her presence during the operation, where it has been alleged that the right kidney of complainant/O.P. No.2 was removed. It is submitted that in fact the operation was conducted by the husband of petitioner namely, Dr. Shailesh Kumar Sinha but, out of oblique motive, the petitioner, who is the wife of Dr. Shailesh Kumar Sinha was made accused in this case.



6. It is pointed that petitioner is a qualified doctor duly registered with Bihar Medical Council (in short 'B.M.C.') and also a holder of Diploma in Obstetrician and Gynaecology from Patna University.

7. It is further pointed by Mr. Thakur that the petitioner earlier moved before the Hon'ble Court and preferred Cr.W.J.C. No.1055 of 2010 for constituting a Medical Board to sought an expert opinion *qua* alleged medical negligence attributed, which was rejected vide order dated 11.10.2010.

8. In this context, it is further submitted that Dr. Mahendra Singh, who is a renowned doctor of Indira Gandhi Institute of Medical Science (in short 'I.G.I.M.S.'), Patna opined some medico technical information that the patient was undergone for surgical treatment for "Chyluria" and his right kidney is not visualized, wherein it was stated that non-visualization of right kidney may be due to progressive pathological situations in the kidney resulting in cortical atrophy and contracted kidney and recommended some medical tests to ascertain the presence of right kidney. The



O.P. No.2 was also tested in the background of allegations by the Mahavir Cancer Sansthan, Patna, where the right kidney was not visualized and, thereafter, he was recommended for a higher center for further testing, whereafter, the patient/O.P. No.2 was referred to All India Institute of Medical Science (in short 'AIIMS'), New Delhi in the year 2004, where I.V.P. and renal scan tests were done, which confirmed about the absence of the right kidney.

9. In this context, it is further submitted by Mr. Thakur that for further testing to ascertain that it is a case of kidney removal or it was absent since birth of the O.P. No.2, a Medical Board was constituted under the Chairmanship of Professor K.L. Gupta, Head of the Department, Nephrology, PGIMER, Chandigarh, wherein after going through CT Pyelography/Cystoscopy, it was categorically stated that the right kidney of O.P. No.2 was not removed, rather, it was found shrunken and severely atrophic.

10. Mr. Thakur further submitted that with aforesaid allegation, the complainant/O.P. No.2 also approached to the State Consumer Disputes Redressal



Commission (in short 'SCDRC'), Bihar, Patna and lodged a case bearing CC No.11/2003. Whereafter, referring to the aforesaid reports, as discussed above, the SCDRC, Bihar through its judgment dated 19.02.2018, categorically held that the right kidney of Mr. Satish Kumar (O.P. No.2) was not removed, and subsequently, the case of informant/complainant was dismissed. It is further submitted that against aforesaid dismissal order, the complainant/informant approached the National Consumer Disputes Redressal Commission (in short 'NCDRC'), New Delhi, where his case was registered as First Appeal No.520 of 2018, which was also dismissed vide order dated 03.05.2023 with observation that the order passed by the SCDRC, Bihar is based on evidence available on record and therefore, not required interference.

11. In view of the aforesaid medical report and legal development, it is submitted that the maximum allegation that appears against this petitioner is to remain present with her husband, namely, Dr. Shailesh Kumar Sinha in the operation theatre, who admittedly conducted an operation



upon complainant/O.P. No.2.

12. It is submitted that the present complaint was lodged only to pressurize the petitioner out of ulterior and oblique motive, which be set aside/quashed to secure the ends of justice, as the petitioner having no fault facing the trauma of criminal prosecution since last 22 years, being a lady doctor.

13. In support of his submissions, learned counsel has relied upon the legal reports of Hon'ble Supreme Court as available through **State of Haryana vs. Bhajan Lal** reported in **1992 Supp (1) SCC 335; Jacob Mathew vs. State of Punjab and Another** reported in **(2005) 6 SCC 1; Rajiv Thapar and Others vs. Madan Lal Kapoor** reported in **(2013) 3 SCC 330; Dipakbhai Jageishchandra Patel vs. the State of Gujarat** reported in **(2019) 16 SCC 547; and Kanchan Kumar vs. State of Bihar** reported in **(2022) 9 SCC 577.**

14. Mr. Sanjay Singh, learned senior counsel appearing on behalf of complainant/O.P. No.2 while addressing the issues submitted that the husband of the



petitioner categorically recorded that the right kidney of the complainant was present before operation in the year 2000 in his prescription. The complainant was treated for “Chyluria”, where pyelolymphatic duct was operated for milky discharge of urine. It is submitted that after operation, the complainant developed pain and, thereafter, he was treated with another physician i.e. Dr. Ajay Kumar Sinha in the year 2003. During the said treatment only, he came to know that his right kidney is not visible. It is submitted that even the report of AIIMS, New Delhi and Mahavir Cancer Sansthan, Patna suggest that right kidney of complainant/O.P. No.2 was not visible. Therefore, at this stage, the report dated 12.08.2016 of P.G.I., Chandigarh could not be considered, as same is the matter of trial. It is also submitted by Mr. Singh that the presence of petitioner in O.T. (operation theater) of her husband was un-occasioned, and, therefore, her un-occasioned presence in operation theater making a *prima facie* doubt *qua* conspiracy. It is also pointed out that fact *qua* conspiracy can also be ascertained during the trial only, as at this stage, this court cannot consider the materials in its



probative terms particularly, when the learned Sessions Judge has rejected the petition of the petitioner preferred under Section 227 of the Cr.P.C.

15. Mr. Singh, further submitted that the case of petitioner was tested legally after considering the materials available on records, whereafter, the learned trial court found that the allegation is not groundless and, therefore, rightly ordered to put petitioner on trial as alleged to be committed for offences punishable under Sections 326, 307, 420, 467 and 471 of the IPC.

16. While concluding argument, Mr. Singh submitted that the issues as raised by the learned counsel appearing for the petitioner can be looked into at this stage and in support of his submission, Mr. Singh has relied upon the legal report of Hon'ble Supreme Court as available through **Central Bureau of Investigation vs. Aryan Singh, etc.** as reported in **2023 SCC OnLine SC 379**.

17. It would be apposite to reproduce the medical report of Postgraduate Institute of Medical Education and Research, Chandigarh dated 16.03.2016 available on record



through Letter No.EV(9)PGI-MS/MA-63/2016, which is as
under:-

**"Report of the Medical Board
regarding CC No. 11/2013 Titled as Satish
Kumar V/s Adarsh Nursing Home**

The meeting of the Medical Board (under the chairmanship of Prof. K L Gupta Head, Department of Nephrology, PGIMER, Chandigarh,) constituted as vide office No. EV(9)PGI-MS/MA-63/2014 dated 28.4.2014 regarding CC No. 11/2013 titled as Satish Kumar V/s Adarsh Nursing Home was held on 18.2.2016 at 12.00 noon in the office of the Chairman.

The following members were present.

1. Prof. K.L. Gupta, HOD, Nephrology.
(Chairman)
2. Dr. Uttam K. Mete, Professor, Urology.
(Member)
3. Dr. Mandeep Garg, Additional
Professor, Radio diagnosis. (Member)
4. Dr. Sandeep Singh Flora, Medical
Officer. (Convener)

The board members went through the records provided to the Committee and made following observations:-

Way back in year 2000 Satish Kumar was treated at Adarsh Nursing Home, Patna by Dr. Sailesh Kumar Sinha. As per the record provided, Satish Kumar was suffering from chyluria. He had an abdominal ultrasonography as advised by Dr. Sailesh and that had confirmed presence of both the normal sized kidneys (only the report has been provided, no image is attached). He was taken up for cystoscopy by Dr. Sailesh and findings recorded as "efflux of milky urine noted from right ureter". Subsequently the



patient was taken up for open surgery on right kidney. As per record he had performed pyelolymphatic disconnection in September 2000. He had stayed about three weeks in the hospital. During his stay he had pus discharge from the wound. Dr. Sailesh had asked for opinion from a physician Dr. Ajay Kumar Sinha. Subsequently Dr. Sailesh had got another abdominal ultrasonography of the patient which shows the presence of both the kidneys as per the record provided (no image included). The patient was discharged and never gone back to the surgeon. He was being treated by Dr. Ajay Kumar Sinha and others. In 2003, abdominal ultrasonography was performed and was reported about the absence of right kidney. Then his IVF was also done which confirmed absence of right kidney. He was referred to AIIMS (New Delhi) and was seen in 2004. On ultrasound examination (contd.) absence of right kidney was again reported. Attending doctor also got the renal scan done which also had confirmed the absence of right kidney.

As per the complainant his kidney was taken out by Dr. Sailesh Sinha at the time of surgery in year 2000.

After going through the records the board members felt that the following questions needed to be answered:

1. Whether the right kidney of the patient was absent since birth or
2. It was normal and was taken out surgically.

To answer these the committee felt that:

1. The patient needs to be examined



physically.

2. He needs renal CT angiography.

3. Cystoscopy with right retrograde ureteropyelogram.

The patient had undergone CT Angiography on 18.07.2014 in PGIMER, Chandigarh. It had demonstrated presence of a small artery arising from abdominal aorta at level L1 at 9 o'clock position is seen going upto right renal fossa and may suggest possibility of atrophied right renal artery. The patient was advised to undergo cystoscopy and retrograde ureteropyelography. After admission on 19.07.2014, routine blood tests were done which revealed high sugar. He was advised to remain admitted for control of blood sugar before undergoing cystoscopy. The patient had left the hospital against advice. After a long gap he had agreed to undergo the procedure. After ensuring anesthetic fitness Satish Kumar was taken up for cystoscopy on 05.02.2016 and it was performed under spinal anesthesia as per the wish of the patient.

On cystoscopy the followings were noted:

i. Anterior urethra normal.

ii. Prostate enlarged.

iii. Trigon is normal

iv. Both the ureteric orifices were normal in appearance and position.

v. Right ureter was cannulated with 6Fr.

Ureteric catheter, the catheter could be passed easily beyond 25 cm. Contrast was instilled through the catheter. which delineated the whole ureter and the whole collecting system (pelvicaliceal system) was also delineated by the contrast (Fig. 1-3, hard copy attached). 4.



vi. The ureteric catheter was kept in the system and the patient was taken up for CT Pyelography after instilling contrast through the ureteric catheter. (contd.)

The CT Pyelogram also demonstrated the presence of whole ureter along with the pelvicaliceal system of right kidney (Fig 4-5, hard copy attached). However, the parenchyma is severely atrophic & shrunken.

In view of findings on cystoscopy, retrograde ureteropyelography and CT Pyelography, the committee concluded that the right kidney of Mr. Satish Kumar was not removed. However, it is shrunken and severely atrophic.

Dr. Sandeep Singh (Convener)	Dr. Mandeep Garg (Member)
Prof. Uttam K Mete (Member)	Prof. K. L. Gupta (Chairman)”

18. From the perusal of records and the history of treatment of complainant/O.P. No.2, it transpires that admittedly the prescription of Dr. Shailesh Kumar Sinha, who is the husband of petitioner is not supported by any hard copy/image of Ultrasonography. There is no complication alleged to be arising out of post-surgery except pain and fever, which was treated later on by Dr. Ajay Kumar Sinha. The aforesaid report of P.G.I., Chandigarh suggests that the complainant left the test for a long period and has made



himself available only in the year-2016 to get it concluded. It also appears that none of the radiological tests prior to P.G.I., Chandigarh suggests that it was a case of kidney removal rather it only suggest that the right kidney of O.P. No.2 is not visualized.

19. Further, records also suggests that the complainant/O.P. No.2, approached before the SCDRC and also the NCDRC. The order of the NCDRC was not challenged before the court of law and, therefore, it attains finality, where all medical evidences/reports were discussed in length. The petitioner admittedly did nothing during the operation and she was only alleged to be remain present there as a team member, which was suspected as un-occasioned by the complainant. It is an admitted position that Dr. Shailesh Kumar Sinha, who conducted operation upon complainant is the husband of the petitioner.

20. It would be apposite to reproduce para-102 of the legal of report of Hon'ble Supreme Court as available through **Bhajan Lal case** (supra), which is as under:-

“**102.** In the backdrop of the interpretation of the various relevant provisions of the Code



under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.



(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved



party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

21. It would further be apposite to re-produce **para-38 and 48** of the legal report of Hon’ble Supreme Court as available through **Jacob Mathew case** (supra), which is as under:-

“38. The question of degree has always been considered as relevant to a distinction between negligence in civil law and negligence in criminal law. In *Kurban Hussein Mohammedali Rangwalla v. State of Maharashtra* [(1965) 2 SCR 622] while dealing with Section 304-A IPC, the following statement of law by Sir Lawrence Jenkins in *Emperor v. Omkar Rampratap* [(1902) 4 Bom LR 679] was cited with approval:

“To impose criminal liability under Section 304-A, Penal Code, 1860, it is necessary that the death should have been the direct result of a rash and negligent act of the accused, and that act must be the proximate and efficient cause without the intervention of another’s negligence. It must be the *causa causans*; it is not



enough that it may have been the *causa sine qua non*.”

48. We sum up our conclusions as under:

- (1) xxx xxx xxx
- (2) xxx xxx xxx
- (3) xxx xxx xxx
- (4) xxx xxx xxx
- (5) xxx xxx xxx

(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.”

22. It would be relevant to reproduce para-26 and 27 of the legal report of Hon’ble Supreme Court as available through **Rajiv Thapar case** (supra), which are as under:-

“26. This Court had an occasion to examine the matter in State of Orissa v. Debendra Nath Padhi [(2005) 1 SCC 568] (incidentally the said judgment



was heavily relied upon by the learned counsel for the respondent complainant), wherein it was held thus:

“29. Regarding the argument of the accused having to face the trial despite being in a position to produce material of unimpeachable character of sterling quality, *the width of the powers of the High Court under Section 482 of the Code and Article 226 of the Constitution of India is unlimited whereunder in the interests of justice the High Court can make such orders as may be necessary to prevent abuse of the process of any court or otherwise to secure the ends of justice within the parameters laid down in Bhajan Lal case [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335].*”

27. Recently, this Court again had an occasion to examine the ambit and scope of Section 482 CrPC in *Rukmini Narvekar v. Vijaya Satardekar* [(2008) 14 SCC 1] wherein in the main order it was observed that the width of the powers of the High Court under Section 482 CrPC and under Article 226 of the Constitution of India, was unlimited. In the said judgment, this Court held that the High Court could make such orders as may be necessary to prevent abuse of the process of any court, or otherwise to secure the ends of justice. In a concurring separate order passed in the same case, it was additionally observed that under Section 482 CrPC, the High Court was free to consider even material that may be produced on behalf of the accused, to arrive at a decision whether the charge as framed could be maintained. The aforesaid



parameters shall be kept in mind while we examine whether the High Court ought to have exercised its inherent jurisdiction under Section 482 CrPC in the facts and circumstances of this case.”

23. It would also be relevant to reproduce para-16 of the legal report of Hon’ble Supreme Court as available through **Dipakbhai Jageishchandra Patel** case (supra), which is as under:-

“16. In Union of India v. Prafulla Kumar Samal [Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4], after survey of case law, this is what the Court has laid down:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of



universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

24. It would be relevant to discuss the legal report of Hon’ble Supreme Court as available through **Central Bureau of Investigation vs. Aryan Singh, etc. as reported in 2023 SCC OnLine SC 379**, where it has been held that “submission of defences is to be considered during trial and cannot be evaluated by the quashing court by conducting a mini-trial”.

25. In this context, it would also be apposite to reproduce para-29 of the of the legal report of Hon’ble



Supreme Court as available through **State of Orissa vs. Devendra Nath Padhi** reported in **(2005) 1 SCC 568**, which is as under:-

“29. Regarding the argument of the accused having to face the trial despite being in a position to produce material of unimpeachable character of sterling quality, the width of the powers of the High Court under Section 482 of the Code and Article 226 of the Constitution is unlimited whereunder in the interests of justice the High Court can make such orders as may be necessary to prevent abuse of the process of any court or otherwise to secure the ends of justice within the parameters laid down in Bhajan Lal case [1992 Supp (1) SCC 335]”.

26. This Court is aware about the legal position that defence version cannot be looked into at this stage but as report of the PGI, Chandigarh discussed in para-17 of the judgment is a document of such unimpeachable character, to which, this Court has no hesitation to accept at this stage in view of **Devendra Nath Padhi case** (supra), where all previous reports and medical history of complainant/O.P. No.2 were taken into consideration.

27. The version of allegations as set out through



complaint petition, nowhere suggests *prima facie* any cognizable offences as alleged for offences punishable U/s 307, 326, 420, 467 and 471 of the IPC *qua* petitioner. Interestingly, no cognizance was taken for criminal conspiracy punishable u/s 120-B of the IPC. Hence, this case also falls under the golden guideline nos. (1), (3) and (7) as settled through **Bhajan Lal case (supra)**.

28. Considering the aforesaid factual and legal submissions and by taking note of facts, as admittedly the petitioner is the wife of Dr. Shailesh Kumar Sinha, who conducted the operation upon O.P. No.2 on 13.09.2000, where petitioner was only said to be present and further by taking note of the report of P.G.I., Chandigarh, which is a document of unimpeachable character, therefore, taking note of **Devendra Nath Padhi case (supra)**, **Bhajan Lal Case (supra)** and other legal reports as discussed above, this Court is of the opinion that the impugned order dated 23.02.2024 as passed by learned Additional Sessions Judge-X, Patna in Sessions Trial No.440 of 2023 arising out of Complaint Case No.1750(c) of 2003 along with all its



consequential proceedings *qua* petitioner is fit to be set aside/quashed to secure the ends of justice.

29. Hence, the impugned order dated 23.02.2024 with all its consequential proceedings *qua* petitioner as passed by learned Additional Sessions Judge-X, Patna in Sessions Trial No.440 of 2023 arising out of Complaint Case No.1750(c) of 2003, is hereby set aside/quashed.

30. Accordingly, the present petition stands allowed.

31. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	AFR
CAV DATE	15.04.2025
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