

O/C

D.No. 11110/2022

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION)
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)
CRIMINAL WRIT PETITION NO. 152 OF 2022
(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

DELHI DOCTORS FORUM ... PETITIONER

VERSUS

UNION OF INDIA AND OTHERS ... RESPONDENTS

WITH

CRL.M.P. NO. _____ OF 2022

AN APPLICATION FOR EXEMPTION FROM FILING THE
OFFICIAL ENGLISH TRANSLATION OF ANNEXURES

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

MUKESH KUMAR SINGH & CO.
ADVOCATE FOR PETITIONER:

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PROFORMA FOR FIRS.T LISTING

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SECTION - X

(PLEASE TICK/CHECK THE CORRECT BOX):

| | |
|-------------------------------------|-----------------------|
| Central Act: (Title) | CONSTITUTIN OF INDIA |
| Section: | SECTIONS 14,15 AND 21 |
| Central Rule: (Title) | N/A |
| Rule No (s) : | N/A |
| State Act: (Title) | N/A |
| Section : | N/A |
| State Rule : (Title) | N/A |
| Rule No (s) : | N/A |
| Impugned Interim Order : (Date) | N/A |
| Impugned Final Order/Decree: (Date) | N/A |
| High Court : (Name) | N/A |
| Names of Judges: | N/A |
| Tribunal/ Authority: (Name) | N/A |

1. Nature of matter : **CRIMINAL**

| | | |
|----|--|--|
| 2. | (a) Petitioner/appellant No.1: | Delhi doctors Forum. |
| | (b) e-mail ID: | NA |
| | (c) Mobile Phone Number: | NA |
| 3. | (a) Respondent No.1: | Union of India and others |
| | (b) e-mail ID: | N/A |
| | (c) Mobile phone number: | N/A |
| 4. | (a) Main category classification: | 14 Criminal Matters |
| | (b) Sub Classification: | 1407 others |
| 5. | Not to be listed before: | N/A |
| 6. | (a) Similar disposed of matter with citation, if any, & case details:: | NO similar matter is not disposed of : |

A2

| | | |
|-----|--|-----------------------------------|
| | b) Similar pending matter with case details: | No Similar Matter is not pending. |
| 7. | Criminal Matters: | N/A |
| | (a) Whether accused/convict has surrendered: <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | (b) FIR NO. N/A Date: N/A | |
| | (c) Police Station: | N/A |
| | (d) Sentence Awarded: | N/A |
| | (e) Period of sentence undergone including period of detention / custody undergone : | N/A |
| 8. | Land Acquisition Matters: | |
| | (a) Date of Section 4 notification: | N/A |
| | (b) Date of Section 6 notification: | N/A |
| | (c) Date of Section 17 notification: | N/A |
| 9. | Tax Matters: State the tax effect: | N/A |
| 10. | Special Category (first petitioner/appellant only) : | N/A |
| | <input type="checkbox"/> Senior citizen > 65 years. <input type="checkbox"/> SC/ST Woman/child | |
| | <input type="checkbox"/> Disable <input type="checkbox"/> Legal Aid case <input type="checkbox"/> In Custody | |
| 11. | Vehicle Number (in case of Motor Accident Claim matters): | N/A |

Date: 08.04.2022

[MUKESH KUMAR SINGH & CO.]

Advocate for the Respondent

AOR Code No.2589

Supreme Court of India New Delhi

e-mail:mukeshkumarsinghadv.@gmail.com

SYNOPSIS

That the instant public interest litigation under Article 32 of the constitution of India is necessitated on account of continuous assaults on treating doctors under the cover of medical negligence across the country on a regular basis. The doctor's community have been facing existential threat in treating the patients on account of the fear of being tortured by the attendants of the patients including police who are normally acting on behalf of the so-called sympathizer of patients. The recent incident of death of a practicing gynecologist doctor namely Dr Archana Sharma of Jaipur (Rajasthan) on 29.03.2022 is grim reminder of ugly treatment being meted out to the treating doctors. Further, doctors have been serving under constant fear of being assaulted and harassed at the slightest delay in recovery of the patients and the state police are also responsible for the augmentation of the current scenario of hooliganism as the police are freely registering an F.I.R. under serious charges including charges under section 302 of IPC 1860. It is further submitted that the gory incident of Jaipur has stirred widespread protest across the country by large number of doctors fearing their lives and asking for the protection from the government, so that the doctors should not be harassed or tortured after the treatment of patients. It is further submitted that the deceased doctor namely Dr Archana Sharma has fallen victim of harassment by the local politicians who claims to be well-wisher of the deceased patient and had incited the police for booking the doctors couple (husband & Wife) under section 302 of IPC 1860

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(murder charges). In this respect, it is submitted that this Hon'ble Court had extensively dealt the issue of medical negligence in a Criminal Appeal No. 144-145 of 2004 case titled as Jacob Mathew Versus State of Punjab and Ors and had held that,

“... to prosecute medical professional for negligence under criminal law, it must be shown that the accused did something or fail to do something which in given facts and circumstances no medical professional in his ordinary senses and prudence would have done or failed to do.....”

The Hon'ble court further observed that,

“ ... we may not understood as holding that the doctor can never be prosecuted for an offence of which rashness or negligence is an essential ingredients. All that we are doing is to emphasize the need for care and caution in the interest of society for the service which the medical profession renders to human beings in probably the noblest of all and here is need for protecting doctors from frivolous and unjust prosecutions. Many a complaint prefers recourse to a criminal process as a tool for pressurizing medical professional for extracting uncalled for and unjust compensation. Such malicious proceedings have to guarded against.....”

The above observation of this Hon'ble Court is to emphasize that the doctors must be protected from unscrupulous elements of the society who are acting for the ulterior and exterior purposes to pressurize the doctors for illegal

compensation and are adopting various tools of tortures, not only to the doctors but to their relatives. Under the circumstances, it is apt to mention that state police which is the basic apparatus of maintaining the law and order within the society are not aware of the binding instruction of this Hon'ble Court. No training, is being imparted to the state police towards making the awareness about the fact that the cases relating to practicing doctor must be registered with great caution and care. Therefore, the petitioner's forum is approaching this Hon'ble Court for an appropriate direction to insulate the doctors community by an appropriate and adequate safeguarding measures, so that the doctors may serve freely and fearlessly in order to save the precious lives of the patients.

Hence this writ petition in the interest of public at large.

DATES AND EVENTS

| Dates | Events |
|-------------------------|---|
| 28.03.2022 | As per the news report, a pregnant woman namely Late Smt Asha Bhairwa aged about 22 years W/o of Sh. Laluram Bhairwa died at Anand Hospital, Lalsot, Dausa, Rajasthan during course of the delivery caused due to Postpartum (Post-delivery) Hemorrhage (PPH) which a medical condition under which severe bleeding happens after childbirth. |
| 28.03.2022 (Evening) | Sh. Laluram Bairwa (husband of deceased patient) and relatives went back |

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| | <p>to their village along with the body of deceased patient. The hospital had arranged for the body to be sent back to home in an ambulance and they were preparing for last rites at the village. However, it was informed to the husband of deceased doctor namely Dr Suneet Upadhyay that Mr Shiv Shankar Balya Joshi went to their home and picked them up under assurance of getting good compensation.</p> |
| <p>28.03.2022 (Late Night)</p> | <p>After sometimes local leaders namely Mr Shiv Shankar Balya Joshi had succeeded in instigating the family of deceased patient with assurance of getting handsome compensation and had returned with the family and relatives including other borrowed protesters in number of approximately 200 and had started an intensified protest by keeping body in front of hospital demanding immediate action against the erring doctors, where the local police reached the spot of incident and assured protesters about appropriate action and investigation against the treating doctors. However, the protesters could not agree with the assurance of local police and continued the protest till late night. At</p> |

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| | <p>around 12 o'clock night former parliamentary secretary Sh. Jitendra Gothwal, sarpanch Sh. Hemraj Meena demanded assistance to the victim's family and at around one o'clock in the night the family deceased agreed for the post-mortem and the matter was settled.</p> |
| <p>29.03.2022 (Morning)</p> | <p>On Tuesday morning, the body of the patient was handed over to the family members after post-mortem from the medical board. It is pertinent to mention that the police had registered a case against the doctor couple on Monday (28.03.2022) evening itself.</p> |
| <p>29.03.2022</p> | <p>The police personnel of Lalsot Police Station Dausa (Rajasthan) had started threatening the doctor couple for implicating them under serious sections including the section 302 of IPC (murder charges), upon which the deceased doctor could not bear the torturing pressure from the local police on the behest of the local politicians and finally the young doctors had committed suicide leaving a suicide note under her signature.</p> |
| <p>30.03.2022</p> | <p>The husband of deceased doctor has also registered an F.I.R., however, the police has not acted on the F.I.R. of the</p> |

| | |
|------------|---|
| | husband of deceased doctor. |
| 31.03.2022 | The state government has suspended the superintendent of police as well as SHO only to eyewash the public and doctor's community across the country. However, the family of the deceased doctor yet to see the justice. |
| 01.04.2022 | The Delhi Doctors Forum has represented office of Prime Minister demanding the enactment of deterrent law for the protection of the doctor in our country. |
| | The husband of deceased doctor along with children are running from pillar to post to get the justice in said unfortunate incident but of no avail. |
| 8.4.2022 | Hence the instant Writ Petition in the interest of public at large. |

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION)
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)
CRIMINAL WRIT PETITION NO. OF 2022
(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

DELHI DOCTORS FORUM

THROUGH ITS AUTHORIZED REPRESENTATIVES

C-652, SARITA VIHAR NEW DELHI-110076.

CONTACT NO. : 8920984184

E-MAIL : SECRETARYDDF@GMAIL.COM

... PETITIONER

VERSUS

1. UNION OF INDIA THROUGH THE CABINET
SECRETARY CABINET SECRETARIAT RASHTRAPATI BHAWAN,
NEW DELHI-110004

RESPONDENT NO.1

2. MINISTRY OF HEALTH & FAMILY WELFARE
THROUGH SECRETARY NEAR UDYOG BHAWAN
METRO STATION, MAULANA AZAD RD, NEW DELHI,
DELHI 110011

... RESPONDENT NO.2

3. Ministry of Home Affairs
Government of India
Through secretary
North Block
New Delhi-110001

... Respondent No.3

4. Government of State of Rajasthan
Through it's *PRINCIPAL* Secretary

Department of Personnel. Main Building,
Secretariat, Main Building,
Bhagwan Das Road,
Jaipur, Rajasthan-302005.

... Respondent No.4

5. Medical Council of India
Phase -1, Dada Dev Mandir Rd,
Block P, Sector 8 Dwarka,
New Delhi-110077.

Through its Director ... Respondent No.5

(ALL RESPONDENTS ARE CONTESTING RESPONDENT)

PUBLIC INTEREST PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR THE ISSUANCE OF WRIT,
ORDER OR DIRECTION IN NATURE OF MANDAMUS OR
ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION
OR DIRECTIONS FOR COURT-MONITORED SPECIAL
INVESTIGATION TEAM (SIT) TO FIND OUT THE REAL
PERPETRATORS OF THE HEINOUS AND SHOCKING
INCIDENT OF DEATH OF YOUNG DOCTOR BY
COMMITTING SUICIDE AND/OR LAYING DOWN
APPROPRIATE GUIDELINES FOR THE PROTECTION OF
THE DOCTORS THROUGHOUT THE COUNTRY.

TO,

HON'BLE THE CHIEF JUSTICE AND HIS HON'BLE
COMPANION JUSTICES OF THE HON'BLE SUPREME
COURT OF INDIA THE

HUMBLE PETITION OF THE PETITIONERS
ABOVE-NAMED

MOST RESPECTFULLY SHEWETH:

1. That the writ petition under section 32 of the constitution of India is being filed on behalf of the petitioner's forum being aggrieved by continuous assaults on doctors throughout the country. The death of a young doctor namely Dr Archana Sharma of Jaipur (Rajasthan) on 29.03.2022 is nothing but repeated horrendous incidence where the doctors has fallen victim of the systemic violence due to selective assessment of the relative of deceased patient about purported medical negligence on the part of deceased doctors and her husband. In this respect, it is submitted that this egregious incident is not the sole incident but there are series of such incidences where the doctors have been brutally targeted at the behest of some vested and interested persons who are having a grudge against the doctors and the hospitals. It is further submitted that the doctor's community is backbone of any country in as much as the health and safety of the common people is completely dependent upon the able and capable practicing doctors and if they are being savagely brutalized and ultimately leading them on the brink of committing suicide. This is certainly jarring to even think of, in a civilized society. The government has no doubt demonstrated the concern at the time prevalence of Covid-19 and proposed a draft bill for the protection of doctor

community in Parliament, which has never seen the light of the day and still the doctors are falling prey to the monstrous savagery on the part of few of the dissatisfied patients and their relatives. It is further submitted that the law enforcement authorities had shown utter disrespect to the rule of law by disobeying the several directions of this Hon'ble Court where this Hon'ble court had shown utmost consternation to the helplessness of the doctors and laid down safeguards to protect the treating doctors but of a little help to the deceased doctors as the state police has registered the FIR under 302 of IPC (Murder Charges). This situation calls for immediate intervention and indulgence of this Hon'ble to court save the precious life of health warriors who had distinctions of fighting for the patients at the cost of their private and personal lives.

- 1.A That the Petitioner's forum is engaged in the welfare activities relating to the doctors in Delhi. In this respect, it is submitted that there are significant numbers of outstanding doctors who are associated with the Petitioner's forum. The Petitioner's forum is also responsible for promoting the health of common public and had worked tirelessly saving huge number of Covid-19 infected patients during the recent pandemic through Delhi. It is further submitted that the Petitioner's Forum has also been organizing various health awareness programme among various sections of the society specially in the poor community. The members of Petitioner's forum

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are always at the vanguard in the service of the ailing masses during the pandemic. It is further submitted that the members of this forum are deeply saddened at the pathetic spectacle of instances of barbarism being committed against the doctors at a regular interval in the utter disrespect to the rule of law. The law enforcement authorities are merely mute spectator to the breakdown of the writ of law which are normally leading to the death of the young and promising doctors who are yet to contribute to the society by serving the ill and weak persons. The Petitioner's forum being the representative forum, advocating the causes of the doctors in Delhi, approaching this Hon'ble court for direction to the respondent to have adequate mechanism to protect the doctor's community by formulation of comprehensive guidelines laying down do's and don'ts to the law enforcement authorities whenever the cases relating to doctors are reported to the respective police stations. death of young doctor. It is further submitted that the doctors from all corners of the country regardless of the discipline like be it urologist, pediatrics, gynecologists, cardiologist, surgeon etc. are completely broken and holding protest all across the country against such unfortunate premature death of qualified gold-medalist doctor at Lalsot, Dausa (Rajasthan). It is matter fact that a doctor may not be in position to save all patients

life at all the time, as the patient may succumb to death due the critical illness. Nevertheless, in such circumstances, the attendant become violent on treating doctors without exercising the gravity of the illness. It is further submitted that petitioner's forum has already represented the concerned authorities for taking appropriate action against the wrongdoer at the earliest along with deterrent mechanism to protect the doctor's community. The copy of the said representation dated 01.04.2022 is being annexed here with and marked as Annexure P-1 [Page 1.8. to Page 1.9.].

1.B That the instant writ petition is being preferred on behalf the petitioner's forum namely "Delhi Doctors Forum" through its duly authorized representative namely Dr S. K. Poddar, the president, aged about 63 years, S/o, Sh. SN Poddar, R/o A-12, Jaganpura Extension, New Delhi-110014, is preferring this writ petition in the interest of public at large for issuance of an exhaustive guideline in order to protect the treating doctors from physical assault as well as harassment being caused by attendants of patients in the circumstances of delay in recovery of the patients. The copy of the authorization letter dated 01.04.2022 is being annexed herewith and marked as Annexure P-2 [Page 2.0 to Page].

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1.C That the Petitioner's forum has decided to approach this Hon'ble Court against the callous handling of the whole incident which led to the commission of suicide by young doctor and the state police instead of helping the doctor, sided with the family of the patients and got a FIR registered against the doctor's family under section 302 of IPC, 1860 which are completely against the pronouncement of the judgment of this Hon'ble Court. The downloaded copy of the print media reports along with the suicide note of doctor is being annexed here with as Annexure P-3 [Page 21. to Page 22.].

1.D That the Petitioner's forum is an organization working for the welfare of doctors in Delhi. The forum has been continuously raising various issues relating to doctors even during the prevalence of Covid-19. In this respect it is further submitted that all its members had been a committed social worker for the safety of the patients. The Petitioner Forum has adequate average financial resource to pay the cost in case this Hon'ble Court finds this PIL to be without any cause of action. Further the petitioner's organization undertakes through the authorized representative that in case any cost is imposed by this Hon'ble Court, the Petitioner's organization has the means to pay the same. The email address of the petitioner's forum is secretaryddf@gmail.com and contact details of its President is +91-

9811081342. The Permanent Account Number of the Petitioner's organization is AAHAD4837G. The postal address of the Petitioner's forum is C-652, Sarita Vihar, New Delhi -110076.

- 1.E The Petitioner's forum have no personal interest, or private/oblique motive in filing the instant writ petition. There is no civil, criminal, revenue or any litigation involving against the Petitioner's organization, which has or could have a legal nexus with the issues involved in this writ petition except to bring such illegality on the part of the police in interest of the doctors across the country.
- 1.F That the Petitioner's forum is filing this Writ Petition on their own volition and its shall be liable to pay the costs as ordered by this Hon'ble Court in the event, if it is found out that this petition is frivolously filed for any personal gain or oblique motives.
- 1.G That this petition is being filed out of the own findings of the Petitioner's forum. This petition is filed on the basis of information that have been verified in capacity of personal knowledge as well as information obtained by the Petitioner from various sources. The incidences of suicide by the practicing doctor in vicinity of Lalsot police station at Dausa, Rajasthan is an illustrative of the reoccurring phenomenon where the qualified doctors are being victimizes by the illegal and

arbitrary treatment from the state police under the presumption of medical negligence. In this respect, it is submitted that the state police once gets such complaint of medical negligence, starts ruckus at the premises of the practicing doctors against whom the complaint received from the attendant of the patients so much so, as per the contents of FIR registered by the husband namely Dr Suneet Upadhyay of deceased doctor, it is apparent that one politically influenced local leader namely Mr Shiv Shankar Balya Joshi along with a patrika reporter Mr Mahesh had played a pivotal role in forcing the treating doctor to commit suicide as they had called public move by instigating the family and relatives of deceased patients including the common people with support of local goons under news coverage for the purpose best known to them only .

- 1.H That the petitioner did not have any Civil, Criminal or Revenue litigation and do not have any legal nexus involved in the present Public Interest Litigation petition.
- 1.I That the petitioner assures the Hon'ble Court that in case of failure of this petition before this Hon'ble Court and the Hon'ble Court imposes cost, it shall be paid by the petitioner.
2. That the Petitioner's forum has no political affiliation to or membership of any political party. The Petitioner further submits that they have never held any post of

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any national or regional political party. The Petitioner never directed their attention towards evaluation and interfering in the working of any State of Central Government or authorities.

QUESTION OF LAW

3. That it is submitted that in the circumstances mentioned herein above and below, the pertinent question of law emerges for consideration and determination which are set out as under:-

- (a) Whether, there is urgent need for formation of Court Monitored SIT to look into the all aspect of the incidences independently without any pressures?
- (b) Whether, there is a need for detailed guidelines for safeguarding the Doctors Community from such incidences in the future?
- (c) Whether, the act of local state police is justified in registering an F.I.R. against deceased doctor under serious charges of murdering a patient who died in course of the treatment?
- (d) Whether, the respondents No.2 (i.e. State of Rajasthan) is not responsible for death of innocent doctors namely Dr Archana Sharma by not taking adequate caution while registering the FIR against the doctor in terms of the judgement of this Hon'ble in case titled as Jacob Mathew versus State of Punjab & Ors?

GROUND

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4. That petitioner's forum being aggrieved by unfortunate death of Dr Archana Sharma of Jaipur (Rajasthan) who has been compelled to commit suicide on 29.03.2022 leaving a suicide note under her signature. It is further submitted that the allegations leveled by the local state police under the serious charges of murder of a patient is completely arbitrary to the provision of law and same needs to being investigated that under what circumstance the FIR was registered under the serious criminal charges. There is wide spread discontent among doctor's fraternity who had faced arbitrary criminal charges under the garb of medical negligence. Hence, the Petitioner's organization is professionally/ socially obligated to raise this issue before the Hon'ble Court by this petition of public interest litigation on the grounds inter-alia the following grounds as mentioned herein below:-

- (a) Because, the state police had failed to investigate the unfortunate death of a young doctor and harassed the family of the deceased doctor by levelling false charges and it is completely unthinkable to rely on the state police for any kind of justice. As such independent inquiry is required to be made by independent formation of Court Monitored SIT for looking into the whole issue
- (b) Because, numerous recurring incidences of the beating of the doctors are daily headlines and the inaction of the police to bring the culprit to book is incomprehensible despite the authoritative judicial

pronouncement of this Hon'ble Court. Clearly, the local police had violated the judgment of this Hon'ble Court.

- (c) Because, there is an immediate requirement for laying down detailed guidelines for urgent protection of treating doctors in scenario when there is allegation of medical of negligence on a doctor and the treating doctor is constantly being exposed to threats from the attendants of the patients as well as the local police.
- (d) Because, the state police have failed to act in a responsible manner which resulted the death of the young doctor under mysterious circumstances. Hence, the doctor's community is having no faith on state police and it is urgently required that CBI enquiry may be instituted to find out the real culprit who are responsible to the death of treating doctor.
- (e) Because, the state police is not having adequate training for dealing with medico-legal cases under the light of settled positions of law which further compounded the situation and ultimately said inevitable incident has happened. As such, there is urgent requirement for training of the police officials for handling medico-legal cases with having specific qualification enabling the police officer to understand the cases of medical negligence.
- (f) Because, there is urgent need for the creation of medico-legal cell at every police station across the

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country to look into the incidences related to medical negligence cases like instant case which could have been handled at much effective sensitivity in order to ward off the said horrible incidents.

5. That it is submitted that the Petitioners craves the leave of this Hon'ble Court to plea and urge any other further grounds which may be taken by the Petitioners during the course of arguments on the present petition and same will be filed at the earliest on direction of this Hon'ble Court.
6. That it is submitted that the authorities in India must ensure that the policy decision relating to regulating the health sector by laying down the affirmed policy. It is further submitted that the Petitioners, in the interest of the general public at large is filing the present petition to stress the need for a comprehensive regulatory with detailed guidelines to regulate the healthcare sector in India.
7. That the petitioner has not filed any other writ petition filed in this court or any other High Court in India .

PRAYER

In view of the above and in the interests of justice, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- A) Issue a direction in nature of mandamus for formation of Court Monitored SIT for investigating unfortunate death of young

gynecologist doctor Archana Sharma at Dausa (Rajasthan).

and/or

- B) Issue a detailed guideline for protection of doctors across the country and the law enforcement authorities may not unnecessarily harass innocent doctors.

and/or

- C) Pass such further order(s) as may be deemed fit and proper under the facts and in the circumstances of the case.

AND FOR THIS ACT THIS KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN BY:

FILED BY:

(SHASHANK DEO SUDHI)

[MUKESH KUMAR SINGH & CO.]

Associates & Solicitors

Advocate for the petitioner

Advocates

Drawn on 07.04.2022

Drawn on 08 .04.2022

15

IN THE SUPREME COURT OF INDIA
(EXTRA-ORDINARY CRIMINAL WRIT JURISDICTION)
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

CRIMINAL WRIT PETITION NO. OF 2022
(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

| | | |
|-------------------------------|-----|--------------------|
| Delhi Doctors Forum | ... | Petitioner |
| Union of India and Ors | ... | Respondents |

AFFIDAVIT

I, Dr SK Poddar, the president of Delhi Doctors Forum, aged about 63 years, S/o Sh. S N Poddar, R/o A-12, Jangpura Extension, New Delhi-110014, being the petitioner, do hereby solemnly affirm and declare as under:-

1. That I being the president of Petitioner's forum is well conversant with the facts and circumstances of the present matter and am competent to swear this affidavit
2. That accompanying Writ Petition under Article 32 of Constitution of India has been drafted by me and the facts stated therein are true and correct to the best of my knowledge and belief. The contents of Para 01 to Para 7 including synopsis, list of dates & events and prayer of the accompanied public interest litigation are true and correct to the best of my knowledge belief. The contents of the same are not being reproduced herein for the sake of brevity and may be read as part and parcel of this affidavit.


DEPONENT

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VERIFICATION

Verified at New Delhi on this 07th day of April 2022 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.

S. K. Sharma
DEPONENT

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IN THE SUPREME COURT OF INDIA
(EXTRA-ORDINARY CRIMINAL WRIT JURISDICTION)
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

CRIMINAL WRIT PETITION NO. OF 2022
(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

Delhi Doctors Forum

... **Petitioner**

Union of India and Ors

... **Respondents**

AFFIDAVIT

I, Dr SK Poddar, the president of Delhi Doctors Forum, aged about 63 years, S/o Sh. S N Poddar, R/o A-12, Jangpura Extension, New Delhi-110014, being the petitioner, do hereby solemnly affirm and declare as under:-

1. That I being the president of Petitioner's forum is well conversant with the facts and circumstances of the present matter and am competent to swear this affidavit.
2. That the contents of the affidavit stating that there is no personal gain, private motive or oblique reasons in filling the public interest litigation:


DEPONENT

VERIFICATION

Verified at New Delhi on this 07th day of April 2022 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.


- DEPONENT



ANNEXURE 1

Indian Medical Association Dwarka Branch, New Delhi 2022-2023

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| | | |
|--|---|---|
| Dr Pritam Pankaj President +91 8826231059 | Dr Surender Yadav Hony. Secretary +91 9548414587 | Dr Ajit Kumar Finance Secretary +91 9818868888 |
|--|---|---|

- Immediate Past President**
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Dr Bharti Seth
Dr Ruchi Agrawal
Convener
Dr Deepmala Lalchandani
Co-Convener
Dr Neena Yadav

Saturday, 2 April, 2022

To,
The Honorable Prime Minister
Government of India

Respected Sir,

With great pain, anguish and dismay it is to bring to your kind knowledge and notice the way in which out of a situation created by the Law and enforcing authorities in the State of Rajasthan has resulted in a leading lady physician committing suicide which has been widely brought in the media across the country. It is a matter of grave tragedy that Doctors community which has always risen to the ranks to cater to the larger cause of care and cure and all other societal requirements are dealt in a manner which definitely makes even the worst brutality get shamed.

In this connection a unfathomable unrest that has been caused in the minds of medical professionals across the country and also they conscious struck on the human society as a whole. The tragic incident was avoidable under all circumstances but the brazen-afreance with which the law enforcing authorities resort to has resulted in the travesty of the tragedy in the truest sense.

Indian Medical Association has been persistently with the authorities to take cognizance of this situation and enact lawful means for invocation of required insulation to these murderous assaults to be avoided. It has been brought to the knowledge and notice the Government of India that the Hon'ble Supreme Court in an explicit pronouncement in Jacob Mathews Vs. Union of India Case have prescribed guidelines in regard to the arrest of the medical professional, accused of criminal negligence which are loud and clear. However, in spite of the fact that these guidelines by virtue of having been pronounced by the Hon'ble Supreme Court are binding and mandatory but because they have not been converted into a required legal provisions are neither observed nor are even taken note of. The net result is the chaotic murderous situation that are occurring with routinity.

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Indian Medical Association Dwarka Branch, New Delhi 2022-2023

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Dr Bharti Seth

Dr Ruchi Agrawal

Convener

Dr Deepmala Lalchandani

Co-Convener

Dr Neena Yadav

As such, Association has repeatedly brought it to the knowledge and notice of the Government of India to that the guidelines that have been prescribed by the Hon'ble Supreme Court need to be appropriately incorporated in the Criminal Procedure Code by the required legislative procedure. The required Draft Amendment has also been proposed and has been made known but nothing has moved in this direction in any manner.


As a result, we are put to question to our own self that how long the doctor community is required to be sustaining this tragic imposition on them unilaterally for no fault of theirs. It has resulted in grave insecurity and an apprehension of worst nature which has prevailed across the medical fraternity and has put it into gravest possible despondence and despair.

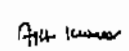
As such, it is earnestly requested that your kindness may kindly intervene and direct the appropriate Ministry to invoke incorporation of the guidelines brought out by the Hon'ble Supreme Court in *Dr. Upendra Mathews Vs. Union of India* Case through a required legislative modification in the governing Law including Criminal Procedure Code to provide the required insulation to the medical profession and professionals and resultant to the society as a whole. We look up to your goodness with great hope and expectations that you shall definitely rise to the occasion and dispense this humanitarian requirement in all its fairness and earnestness at its earliest.

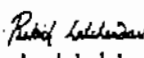
With humble regards,


Yours sincerely


Dr Pritam Pankaj
President, IMA Dwarka


Dr Surender Yadav
Hony Secretary, IMA Dwarka


Dr Ajit Kumar
Finance Secretary, IMA Dwarka


Dr Prakash Lalchandani
Former VP, DMA


Dr Mukesh Verma
Immediate Past President, IMA Dwarka



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Annual Report - 2

Indian Medical Association

Dwarka Branch, New Delhi

20

2022-2023

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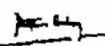
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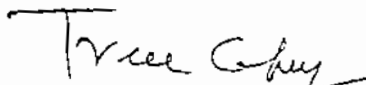
Saturday, 2 April, 2022

AUTHORISATION LETTER

Unanimously resolved & approved vide minutes of the Executive Board & Office bearers Meeting of IMA Dwarka dated 01/04/2022 Online that Dr Mukesh Verma, Dr Pritam Pankaj, Dr Prakash Lalchandani, Dr Surender Yadav & Dr Ajeet Kumar of Indian Medical Association, Dwarka Branch, are hereby delegated with the authority to represent on behalf of the Indian Medical Association, Dwarka Branch, for the purpose of contesting / representing / deposing / filing documents / pleadings / authorizing / engaging / appointing counsel(s) in the court for filing criminal case / writ / defamation/ suit against union of India & others in case regarding Suicide of Dr Archana Sharma & for protection of Doctors against violence & harassment & taking any decision which may be appropriate in defending & fighting In the said case before the court of law and their decision is deemed to be decision on behalf of the Executive Board of Indian Medical Association, Dwarka Branch. This issues with approval of executive board.


Dr Pritam Pankaj
President, IMA Dwarka


Dr Surender Yadav
Hony Secretary, IMA Dwarka



Immediate Past President
Mukesh Verma
Asstt. Secretary, DMA
Member, Working Com. IMA HQ
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SUCIDE NOTE OF DOCTORS

21

I, love my husband and children a lot. Please do not harass them after my death. I did not commit any mistake, did not kill anyone. PPH is a known complication. Stop harassing doctors so much for this .My death may prove my innocence. DON'T Harass Innocent doctors. Please love you, Do not let my kids feel the absence of their mother ."

TRUE TRANSLATED COPY

Doctor's suicide in Dausa ; did the Police flout Rules, by filing a Murder Charge?

Dr. Archana Sharma died by suicide after she was charged with murder of a patient who died during childbirth .

ASHLESH THAKUR

FIT

Update 31st March, 2022 4:22 PM 1st

3 mn. Read

After the death of a female patient due to complications during childbirth, a case of murder was registered against the doctor in charge without any investigation by the Police.

According to media reports, Dr. Archana Sharma, a doctor in a private hospital in Dausa district, Rajasthan, was so distressed by the charges that she took her own life.

In her suicide Note, Dr. Archana Sharma said that she hoped her death would prove her innocence. What is the Dausa suicide case ? What does the law say ? what is the reaction of the doctor community on this ? FIT breaks it down.

Also Read .

Rajasthan Doc Suicide : India's 38% Maternal Deaths due to Postpartum haemorrhage.

What happened?

Dr. Archana Sharma, a doctor in a private hospital in Dausa District of Rajasthan, allegedly died by suicide on Tuesday, 29th March,

According to the Police, a pregnant female patient had died during childbirth after which a case of murder was registered against Dr. Sharma.

However, the death of the patient, according to hospital records, happened due to complication related.

To postpartum, haemorrhage related excessive bleeding.

The question, then being raised is, how did the police register an FIR of murder under IPC 302 without direct investigation?

Indian Medical Associations' Ex-President Dr. Ajay Kumar told FIT, "it is sad that the patient died due to complications. But in such a situation, legal action should not be taken against the doctor, Doctors, can neither be charged under IPC 302 or IPC 304".

The risk of postpartum haemorrhage, which is known for its associated complications, is high during childbirth. Most postpartum haemorrhages tend to be fatal, with data indicating that 38 percent of maternal deaths in childbirth are caused by this.

What does the Law Say?

The Supreme Court of India, in its judgment on August 5, 2005, on the Jacob Mathew Vs. State of Punjab et al. observed, "a private complaint may not be entertained unless the complainant has produced prima facie evidence before the Court in the form of a credible opinion given by another competent doctor to support the charge of rashness or negligence on the part of the accused doctor."

Also Read.

BJP Leader Arrested for alleged Abetment of Rajasthan Doctor's

Suicide

"The investigating officer should before proceeding against the doctor accused of rash or negligent Act or omission obtain an independent and competent medical

opinion preferably from a doctor in government service qualified in the branch of medical practice who can normally be expected to give an impartial and unbiased opinion applying Bolam's test to the facts collected in the investigation."

The Supreme Court of India .

Speaking to Fit, Medico – Legal expert Dr. Ashwini Setya said, " police have ignored the Supreme Court's decision in this case. IPC 302 cannot be involved here".

Dr. Ashwini Setya's argument was also echoed by Brijesh Kumar Mishra, a senior lawyer practicing in the Supreme Court.

He said. " IPC 302 applies only when it can be proved that the guilty had intent to kill. Without such intent a case cannot be registered under IPC 302."

" Childbirth has a great risk of medical death. A case under IPC 302 cannot be registered here, the Supreme Court has said in other such cases ".

Brijesh Kumar Mishra , Senior Advocate , the Supreme Court of India

Doctor Communities React.

In response to the situation, doctor communities in Jaipur Delhi and UP voiced their protest. The Federation of Obstetric and Gynaecological societies of India (FOGSI) said it was saddened by what happened with the doctor.

" The clause for medical negligence is invoked in such cases. But the police there erred in invoking the provision of intent to murder. This led the doctor to feel humiliated and victimised leading to their death by suicide out of shame and frustration," FOGSI officials said .

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Rajasthan government remove Dausa, SP, suspends cop over case leading to doctor's death by suicide .

A doctor at a private hospital in Rajasthan's Dausa, Dr. Archana Sharma died by suicide after she was booked on charges of murder in connection with the death of patient.

Dev Sakur Wadhawan

Jaipur March, 30, 2022 UPDATED March, 30, 2022 23:46 IST.

File photo of Dr. Archana Sharma (Twitter @official aims)

Officer in – charge of the Lalsot police station in Dausa, Anit Chaudhary, has been placed under suspension in connection with the Dr. Archana Sharma Suicide case. The suspension came hours after Rajasthan CM Ashok Gehlot issued a statement in this regard.

The chief Minister said, " Suicide committed by Dr. Archana Sharma in Dausa is extremely saddening . We all give the status of God to doctors. Every doctor tries to make a complete effort to save the life of the patient but to blame the doctor for any unfortunate occurrence is not fair .

" If doctors are threatened in this manner, how will they be able to work at peace ? We should at think how such treatment can be meted out to doctors who rendered their services by putting their lives at risk during corona pandemic or other diseases. This entire matter is being seriously investigated and the accused will not be spared."

Read : doctors stage protest after Dausa gynaecologist booked on murder charges dies by suicide .

The Rajasthan government has also ordered the removal of the Dausa Superintendent of Police (SP) over the department's handling of the case.

"Deeply affected by the suicide committed by female medical practitioner Dr. Archana due to fear of Police. Dr. Archana is the same medical practitioner who, without fearing about her life. Saved the lives of people during the corona era. There should be an impartial investigation of this case," former Rajasthan chief minister Vasundhara Raje said referring to the case.

What is the case ?

A medical practitioner working with a private hospital in Rajasthan's Dausa. Dr. Archana Sharma, was booked under Section 302 (murder) of the Indian Penal code (IPC) after one of her patients, a pregnant woman, died as a result of complications.

Check These Out

more

Photo

Following the patient's death, family members of the pregnant woman accused the private hospital of negligence.

The Lalsot police, allegedly under political pressure, registered an FIR against Dr. Archana Sharma under 302 of the IPC. The reportedly forced Dr. Sharma to take the extreme step.

In her suicide note, Dr. Archana Sharma wrote.

"I, love my husband, children a lot. Please do not harass them after my death. I did not commit any mistake, did not kill anyone. PPH is a known complication. Stop

harassing doctors so much for this .My death may prove my innocence. DON'T HArass Innocent doctors. Please."

Rajasthan Doctor suicide case: Dausa SP

Removed, SHO Suspended

Taking serious note of the suicide of a doctor in Dausa after being booked for murder, Rajasthan chief Minister Ashok Gehlot on Wednesday ordered the removal of a senior Police officer and suspension of as SHO.

Dr. Archana Sharma committed suicide on Tuesday due to alleged harassment after police filed an Fir against her under section 302 (murder) of the Indian Penal code at Lalsot Police station in Dausa In connection with the death of a illegible woman at her hospital.

According to an official release, Gehlot has directed the officials to remove Dausa Superintendent of Police Anil Kumar suspended SHO of Lalsot Police station Ankesh Kumar and put deputy Superintendent of Police lalsot Shankar lal illegible under awaiting posting orders, Divisional Commissioner Jaipur Dinesh Kumar Yadav will conduct an administrative inquiry into the matter.

Gehlot gave the instructions in a high -level meeting at his residence on Wednesday evening. It was decided in the meeting that strict action should be taken against those who

abetted the woman to commit suicide by registering a case, a release of said.

Photo

The chief minister also directed to constitute a committee led by additional chief secretary, (home) to prevent recurrence of such incidents and to give necessary suggestions. The committee will comprised of secretaries of Medical and health department, medical education department, senior officers from police and law departments and doctors.

The committee will study all the legal aspects and will prepare a guideline, which will be implemented across the state Gehlot also condemned the incident and said an inquiry is going on and those found guilty will not be spared.

" the incident of Dr. Archana Sharma's suicide in Dausa in very sad. We all give the status of god to doctors. Every doctor tries his best to save the life of the patient , but it is not justified to accuse the doctor as soon as any unfortunate incident happens, Gehlot tweeted earlier in the day. " If doctors will be intimaided like this, then how, will they be able to do their work with confidence? We all should think about how such treatment can be done to the doctors who served all by risking their lives during covid Pandemic , he added.

Promoted content

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Photo

The Rajasthan State Commission for Woman has taken cognizance of the matter and sought a factual report from police within seven days. Relatives of Asha Dairwa, the woman who died on Monday, accused Sharma of negligence and held a demonstration with the dead body outside Anand Hospital in Lalsot Dausa – owned by Sharma and her husband Dr. Suneet Upadhyaya.

In her suicide note in Hindi, Sharma wrote, I love my husband and children very much please do not trouble my husband and children after my death. I did not commit any mistake and did not kill anyone PPH is a severe complication stop harassing doctors for it. My death may prove my innocence. Do not harass innocent doctors, please. According to Sharma, the cause of Bairwa's death was postpartum Haemorrhage PPH, a medical condition under which severe bleeding happens after childbirth.

In a video message, Upadhyaya has blamed BJP leaders of protecting accused Balya Joshi, who allegedly mounted pressure on police to lodge the murder case, but the saffron party has denied the allegation.

PHOTO

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Visuals from outside the private Hospital in Dausa

Rajasthan : Facing murder charges, doctor dies by suicide;
private hospitals in Dausa, Jaipur go on strike .

ANI : Updated: Mar 30, 2022 10:59 IST

Jaipur (Rajasthan) (India) March 30 (ANI): A police case has been registered after a woman gynaecologist at a private hospital in Dausa here died, allegedly by suicide, after she was booked for the death of a pregnant woman, police said.

Dausa Station House officer, Shankar Lal Meena said, The doctor's body has been sent for post- mortem. We have filed an Fir of the suicide case. A suicide note was received from the room. We are further investigating the matter."

According to Police, the gynaecologist Dr. Archana Sharma allegedly died by hanging on march, 29 inside a room of the hospital after an FIR was registered against her at the Lalsot Police Station after family of the pregnant woman demonstrated outside the hospital and demanded immediate action against the doctor alleging negligence .

The patient's family created a ruckus outside the hospital and had lodged an Fir against Dr. Archana and her husband Dr. Suneet Upadhyay under Section 302 of the Indian Penal code. The FIR stated that due to the negligence

of the Hospital and the doctor the patient lost her life and demanded strict actions against the doctor and her husband.

An FIR has been filed at the Dausa Police station by the husband of Dr. Archana Sharma seeking immediate action against a politician. Balya Joshi and the patient's attendants for inciting the doctor to commit suicide.

Federation of Resident doctors' Association has written to the government of Rajasthan regarding the suicide case of Dr. Sharma and urged for strict actions against the demonstrators and immediate withdrawal of the FIR. FORDA has also demanded compensation by the State government to the family of the deceased doctor.

FORDA stated that " Post – Partum Haemorrhage (PPH) is a known complication following delivery in pregnant woman and as per guidelines of the supreme court, a doctor cannot be accused of medical negligence in any such incident without proper investigation by an expert committee."

Meanwhile, doctors in private hospitals in Jaipur and Dausa have said they will go on strike today to demanding action against those who abetted the alleged suicide (ANI).

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IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION)
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)
CRL.M.P. NO. OF 2022

IN

CRIMINAL WRIT PETITION (PIL) NO. OF 2022
(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

DELHI DOCTORS FORUM ... PETITIONER

VERSUS

UNION OF INDIA AND OTHERS ... RESPONDENTS

AN APPLICATION FOR EXEMPTION FROM FILING THE
OFFICIAL ENGLISH TRANSLATION OF ANNEXURES

TO,

HON'BLE THE CHIEF JUSTICE AND HIS
HON'BLE COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA THE
HUMBLE PETITION OF THE PETITIONERS
ABOVE-NAMED

MOST RESPECTFULLY SHEWETH:

1. That the instant public interest litigation under section 32 of the constitution of India is necessitated on account of continuous assaults on treating doctors under the cover of medical negligence across the country on a regular basis. The recent incident of death of a practicing gynecologist doctor namely Dr Archana Sharma of Jaipur (Rajasthan) on 29.03.2022 is grim reminder of ugly treatment being meted out to the treating doctors and the doctors now a days under

constant fear of being assaulted and harassed at the slightest delay in recovery of the patients and the state police are freely registering an F.I.R. under serious charges including charges under section 302 of IPC 1860. It is further submitted that the gory incident of Jaipur has stirred widespread protest across the country by large number of doctors fearing their lives and asking for protection from the government, so that the doctors should not be harassed or tortured after the treatment of patients. The deceased doctor namely Dr Archana Sharma has fallen victim of harassment by the local politicians through the relatives of deceased patients as well as the police who had booked both husband wife under section 302 of IPC 1860.

2. That the contents in application may read part and parcel of main petition. The averments therein may kindly be considered as part and parcel of this application.
3. That under the Supreme Court Rules, an official translation of the documents/ Annexure-P-1 to P-3 in vernacular has to be filed along with the application for direction . The petitioner however submits that in view of the urgency in the matter a true translated copy of the annexure-P-1 to P-3 are being filed along with accompanying application for direction .

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- a) Exempt the petitioner from filing official translation of the annexure-P-1 to P-3 which are originally in Hindi.
- b) Pass any other order as this Hon'ble Court may deem to be proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER
AS IS DUTY BOUND SHALL EVER PRAY

DRAWN BY:

FILED BY:

(SHASHANK DEO SUDHI)

[MUKESH KUMAR SINGH & CO.]

Associates & Solicitors

Advocate for the petitioner

Advocates

Drawn on 07.04.2022

Drawn on 08 .04.2022