

## Minutes of meeting dt 2nd April 2022

The Meeting of members of Medicos Legal Aid Association, was organised on 2nd April 2022 at 3: 30 PM. which was attended by ( 15+)

Dr. Mukesh Yadav

Dr. Abhishek Patel

Dr. Sanjay Gupte

Dr. Sanjay Patil

Dr. Arun Malhotra

Dr. Shrikant K N

Dr. Ashish Khatod

Dr. Kannan

Dr. Swati Dole

Dr. Pratbha Kane

Dr. Swamy

Dr. Jyotsna Potdar

Dr. Nitin Dhande

Dr. Shrikant Kunteta

Dr. Rajeev Joshi

Apologies for missing names of a couple of members who joined late and left in between. Errors and omissions may please be excused.

**Dr Mukesh Yadav** said that for any action to be taken the jurisdiction would be High Court of Rajasthan or Supreme Court. The Government has already taken some action and has promised some more action. We should file a PIL or submit representation for execution of guidelines for implementation wrt section 304A

**Dr Abhishek Patel** said that because of PPH the patient died and there was chaos due to which doctor became helpless and committed suicide under pressure. We need to teach doctors what should be done in such situations.

**Dr Sanjay Gupte** said that Jacob Mathew guidelines have not been implemented by any State Government or Central Government in any Law. The Judgement has clearly given such guidelines, but instead of framing law, only judgement is being used. So we need to request the Supreme Court to direct the government to introduce these provisions in the Act. We should also request High Court to initiate action for contempt for not following these guidelines by police in Rajasthan

**Dr Sanjay Patil** said that we should move Rajasthan High Court for implementation of Jacob Mathews as well as contempt by its non implementation in this regard.

**Dr Shrikanth** Said that by applying 302 in this case there is clear contempt of Supreme Court order. So we have to prosecute the police and make an example of the erring police officer before the entire nation, so that such mistakes do not happen again.

**Dr Khatod** said that in order to avoid such incidents, there is need to amend the CRPC so that no procedure is initiated against doctors.

**Dr Kannan** said that we have to file case against police and prosecution for abetment to suicide.

**Dr Swati Dole** said that police should not be permitted to pressurise doctors in this manner, and doctors should be trained on what to do in such circumstances

**Dr Rajeev Joshi** said that he has studied Rajasthan's situation in detail and there is high maternal mortality in the state while it is reducing in India. In addition the health infrastructure is inadequate. This forced the woman to travel about 150 km for delivery. Policies of the government to force tubectomy at the time of third caesarean was responsible for the patient to travel back to her hometown so total time of more than 8 hours was wasted in travel. She may have gone into a prolonged second stage, which is a risk factor for PPH. Therefore the state should own responsibility for the death of the patient. Consequently the police pressurised the doctor who committed suicide, so responsibility of death of the doctor is also on government. Therefore the Government should improve the provisions in the Act so that health workers are protected.

**Dr Gupte** said that there should not be distraction from the main issue regarding Jacob Mathew guidelines being implemented in the law.

**Dr Shrikant** said that we should write to the Government to issue a circular to police stations that 302 should not be applied. He Said that we should insist that the Government should issue gazette notification for making requisite changes in CRPC. He asked what is the maximum punishment for contempt of court. Answers were given by members that

it depends on the court to decide from one day attendance in court to 6 months imprisonment, but there is no hard and fast rule on this. Accused can go scot free on unconditional apology.

**Dr Swamy** said that we are at a point of inflection. This is an opportunity to use social media to change opinions about doctors. What difficulties we go through during medical training, what it takes to start a practice and set up a hospital and how a doctor has to manage 24x7 life to treat the patients. However such humble, sincere and dedicated medical practitioner is at the mercy of police and politicians,

**Dr Jyotsna Potdar** said that doctors need to be trained regarding various clauses of IPC applicable to them so that they can handle difficult situations in a better manner.

**Dr Pratibha Kane** said that instead of 304A, 304 is applied saying that doctors are aware of and have knowledge that complications can occur. In fact for medical negligence 304II Should not be applied and this information should be sent to all police stations. For this it is necessary to prosecute the police so that a stern message goes to them.

**Dr Sudhir Kunteta** from Jaipur Rajasthan said that IMA Rajasthan and Hospital association has declared strike and agitation till all 6 people involved in pressurising Dr Archana are arrested and 306 is applied to them. FIR filed by Dousa IMA has been merged with that filed by Husband of Dr Archana Sharma. The police is saying that there is no contempt of court and at the most it is an act of omission as the concerned police officer was ignorant of the law wrt 302 which is now changed to 304A. He spoke to Lawyers who said that the Rajasthan Medicare Protection Act has not been implemented by police. The standard operating procedures were issued but they are neither complied nor are they implemented in the State. The commissioner of police has set up an inquiry and once a report of enquiry committee is available action will be taken.

**Dr. Rajeev Joshi** informed Dr Kunteta regarding discussion which happened before he joined the meeting. Main points being

1. That Jacob Mathew Judgement has not been implemented in letter and spirit, and it has not been included in any LAW for 15 years
2. That Lalita Kumari Judgement has not been implemented in this case as FIR should not have been filed before preliminary inquiry

3. That it is necessary to amend CRPC so that FIR is not filed against doctors before preliminary inquiry
4. That application of 302 is contempt of Supreme Court orders as listed above which specifically mention medical negligence in them
5. That application of 304 is also incorrect even though doctors know about the complications which may happen during treatment

**Dr Rajeev Joshi** said that it is necessary to amend the Rajasthan Medicare institutions and practitioners protection act and this is an opportunity for us to get the attention of the Hon'ble High Court of Rajasthan. All other associations have taken the path of agitation, strike writing letters to concerned government authorities. We should file a CRIMINAL Public Interest Litigation asking the Hon'ble Court to direct the State Government to make the Act stronger. The deficiencies in medical services in Rajasthan can be used as background to put the Rajasthan Government on backfoot and get leverage for pressing demands w.r.t Lalita Kumari and Jacob Mather Judgements. Dr Rajeev Joshi will send the copy of the petition he filed against Maharashtra State for improving the Act in Maharashtra. Medicos legal Aid Association will help in all possible ways, and if Dr Kunteta or any local association in Jaipur / Rajasthan is willing to file such a PIL, then we can do fund-raising. He agreed with Dr Khatod that we have to buy justice..!!

**Dr Mukesh Yadav** said that if the Act is modified in two states, then it would be easy to get the attention of the Supreme Court for the necessity of Central Act and hence he would support such a petition in the High Court. He also informed that Dr Nagpal is filing a petition in sessions Court in Dousa, but proper jurisdiction for achieving result would be High Court.

#### **During the meeting following tasks were given**

1. **Dr. Swamy** to write a text which is to be circulated on social media. He may send it by email to a group to which others can give suggestions. We will take it up subsequently.
2. **Dr. Khatod** to draft needed amendments in CRPC and send them to Dr Mukesh Yadav. **Dr Yadav** to check, redraft if required and send to group which can give suggestions
3. **Dr. Rajeev Joshi** to send a copy of PIL filed in Bombay High Court regarding Maharashtra medicare institutions and professionals prevention of violence Act.