

ITEM NO.20 Court 6 (Video Conferencing) SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 4575/2020

(Arising out of impugned final judgment and order dated 17-09-2020 in WPCRL No. 1440/2020 passed by the High Court Of Delhi At New Delhi)

ARUN MAITRI

Petitioner(s)

VERSUS

STATE OF DELHI THROUGH STATION HOUSE OFFICER & ANR.Respondent(s)

(FOR ADMISSION and I.R. and IA No.95631/2020-EARLY HEARING APPLICATION and IA No.96559/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 09-10-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Amit Sibal, Sr. Adv.
 Mr. Jayant Mehta, Adv.
 Mr. Tanmaya Mehta, Adv.
 Mr. Sourabh Gupta, Adv.
 Mr. Puneet Yadav, Adv.
 Mr. Vinay Tripathi, Adv.
 Mr. Aishvary Vikram, Adv.
 Ms. Akansha Srivastava, Adv.
 Mr. Rabin Majumder, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The petitioner seeks to assail the impugned order dated 17th September, 2020 which is interim in nature. In the proceedings filed by the respondent No.2 through a Writ Petition seeking quashing of FIR No.125/2020 under Sections 304-A, 120B/34 of I.P.C., it was sought to be

contended by the respondent No.2 that there was no negligence in respect of his role as a surgeon. The High Court notes that the principal allegation against the respondent No.2 is that he did not provide prophylaxis pre-operatively and post-operatively and the same constitutes an act of gross negligence. It was his submission that in fact post-operative DVT pump was provided to the patient while she was in the hospital. These aspects emerged from a Medical Board which has already been held in this behalf.

The Court was of the opinion that it would be appropriate to remit the matter to the Medical Board to render a supplementary opinion arising from the nature of controversy before the Court.

Learned senior counsel for the petitioner contends that the role of the Court cannot be that of an investigative agency and in that behalf refers to paragraph 66 of the judgment in the case of *P.Chidambaram v. Directorate of Enforcement* reported in (2019) 9 SCC 24.

We have examined the contention of the learned senior counsel for the petitioner and find no reason to interfere with the impugned order. No doubt investigation is a matter of discretion to be left to the investigative agency but it is not as if the investigation has been stalled in the present proceedings. The Court, in order to determine a particular plea, which in its view was

important, has found it fit to refer to the same Medical Board for its supplementary opinion. The matter is still kept pending.

We find no case made out to interfere under Article 136 of the Constitution of India. The special leave petition is accordingly dismissed.

Pending applications shall also stand disposed of.

(CHARANJEET KAUR)
ASTT. REGISTRAR-cum-PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR