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ANURADHA TIWARI
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CGHC0103216020262026:CGHC:36994-DBNAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2172 of 2026

Dr Anil Gautam S/o Shri Sitaram Gautam Aged About 48 Years R/o Village Narayanpur, Occupation M B B S Doctor, Tehsil Bhanupratappur, District- Kanker (C.G.) P.S. Bhanupratappur District- Kanker (C.G.)
... Petitioner

versus

1 - State of Chhattisgarh Through The Station House Officer, Police Station Bhanupratappur District- Kanker (C.G.)
2 - Kamlesh Komra S/o Rajman Komra Aged About 23 Years R/o Village Chahchad Tehsil Bhanupratappur District- Kanker (C.G.) P.S. Durgkondal District- North Bastar Kanker (C.G.)
... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Ankit Singh, Advocate
For Respondent No.1/State	:	Mr. Jitendra Shrivastava, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

19.08.2026

1. Heard Mr. Ankit Singh, learned counsel for the petitioner as well as Mr. Jitendra Shrivastava, learned Government Advocate, appearing for the State/respondent No.1.

2. The present petition has been filed by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'B.N.S.S.') with the following relief:-

"It is, therefore, prayed that this Hon'ble Court may kindly be pleased to quash and set-aside the impugned FIR dated 30.07.2026 (Annexure P-1) registered against the petitioner bearing Crime No. 149/2026, registered at Police Station Bhanupratappur, District Kanker (C.G.) for the offences punishable under Sections 106(1) of the Bharatiya Nyaya Sanhita, 2023, together with all consequential proceedings arising therefrom, in the interest of justice."

3. Brief facts of the case are that, the petitioner is a qualified and registered medical practitioner and is the Director/Proprietor of Gautam Hospital, Bhanupratappur, District Kanker, which has been providing medical services for approximately 17 years. On 15.05.2026, deceased Smt. Draupati Komra, a full-term pregnant woman, was referred from the Government Hospital to Gautam Hospital for delivery and further obstetric management. Upon admission, she was examined and treated under the supervision of the concerned treating doctors and medical staff, and necessary investigations, medicines, blood arrangements and other supportive treatment were provided.

4. Despite the medical management undertaken by the treating team, the deceased and her newborn child unfortunately expired on 18.05.2026 during treatment at Gautam Hospital. Thereafter, the Chief Medical and Health Officer, Kanker issued a Show Cause Notice dated 02.06.2026, to which the hospital submitted a detailed reply dated

03.06.2026. Subsequently, an administrative order dated 23.06.2026 was passed concerning the maternity and sonography departments of the hospital.

5. The impugned FIR was thereafter registered on 30.07.2026, approximately 73 days after the incident, for the offence punishable under Section 106(1) of the Bharatiya Nyaya Sanhita, 2023. The petitioner has approached this Court seeking quashing of the FIR and consequential proceedings, contending that no specific act or omission constituting criminal negligence has been attributed to him personally.

6. Mr. Ankit Singh, learned counsel appearing for the petitioner, submits that the impugned FIR does not disclose any specific rash or negligent act or omission personally attributable to the petitioner which could constitute the direct and proximate cause of the death of the deceased or her newborn child. The petitioner was the Director/Proprietor of the hospital and was not the treating doctor of the deceased; the medical treatment was undertaken by the concerned gynaecologist and other medical personnel. It is, therefore, submitted that the petitioner cannot be fastened with criminal liability merely on account of his administrative or proprietary association with the hospital.

7. Learned counsel further submits that the unfortunate death of a patient during medical treatment, by itself, does not constitute criminal negligence. Placing reliance upon ***Jacob Mathew v. State of Punjab, (2005) 6 SCC 1***, it is submitted that criminal negligence requires negligence of a gross or very high degree and that a mere error of

judgment, ordinary negligence or an unsuccessful outcome of treatment cannot automatically give rise to criminal liability. Reliance is also placed upon ***Dr. Suresh Gupta v. Government of NCT of Delhi, (2004) 6 SCC 422***, wherein the distinction between ordinary negligence and criminal negligence requiring recklessness or gross negligence has been reiterated.

8. It is further submitted that the medical negligence allegations must be examined on the basis of competent medical material and that the prosecution cannot substitute the factum of death for proof of criminal negligence. In this regard, reliance has been placed upon ***Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1***, and ***Kusum Sharma & Others v. Batra Hospital & Medical Research Centre & Others, (2010) 3 SCC 480***, wherein the Supreme Court has emphasized that a medical professional is required to exercise reasonable skill and care and is not a guarantor of a successful medical outcome. Learned counsel also places reliance upon ***Supriya Kumari M.C. v. State of Kerala & Ors., 2026 INSC 537***, wherein the Supreme Court reiterated the higher threshold applicable for fastening criminal liability upon a medical professional.

9. Lastly, learned counsel submits that the present case falls within the parameters governing exercise of inherent jurisdiction for preventing abuse of the process of law. Relying upon ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, particularly the categories enumerated in paragraph 108, it is contended that where the allegations in the FIR,

even if accepted in their entirety, do not prima facie constitute the alleged offence or make out a case against the accused, the proceedings can be quashed. It is therefore submitted that, in the absence of any specific allegation or material disclosing gross criminal negligence personally attributable to the petitioner, continuation of the impugned proceedings would amount to abuse of the process of law.

10. Per contra, Mr. Jitendra Shrivastava, learned Government Advocate appearing for the State, opposes the submissions advanced by learned counsel for the petitioner and submits that the impugned FIR has been lodged by the husband of the deceased, who has specifically alleged that his wife, Smt. Draupadi Komra, and the newborn child died during the course of treatment at Gautam Hospital on account of gross negligence and inhuman conduct of the hospital management, Dr. Anil Gautam and other staff. It is submitted that the allegations contained in the FIR, at this stage, cannot be brushed aside, particularly when the complainant has specifically narrated the medical circumstances preceding the referral of his wife to Gautam Hospital and has attributed negligence to the hospital authorities. He further submits that the FIR discloses a cognizable offence and the allegations require proper investigation with regard to the circumstances leading to the death of the deceased and her newborn child. The complainant has specifically alleged that the deceased was admitted at the Community Health Centre, Bhanupratappur on 15.05.2026 in labour pain and, after the medical condition was found critical, she was referred to Gautam Hospital, where she ultimately died during delivery on 18.05.2026,

followed by the death of the newborn child. It is submitted that whether the death was attributable to medical negligence, and whether any specific act or omission on the part of the petitioner or other hospital personnel constituted criminal negligence, are matters which cannot appropriately be adjudicated at the threshold in exercise of the inherent jurisdiction of this Court.

11. Learned Government Advocate submitted that the mere assertion of the petitioner that he was not the treating doctor or that the treatment was being administered by other medical personnel cannot, at the stage of investigation, be accepted as sufficient to exonerate him from the allegations made in the FIR. The precise role of the petitioner, the responsibility of the hospital management, the treatment administered to the deceased, the medical reports and other contemporaneous records, and the causal nexus, if any, between the alleged negligence and the unfortunate deaths are all matters requiring investigation and consideration on the basis of medical and other evidence. It is therefore, submits that the allegations in the FIR, when taken at their face value, prima facie disclose the commission of a cognizable offence and the case does not fall within the exceptional categories warranting quashing of the FIR at the inception. It is further submitted that the principles governing exercise of inherent jurisdiction under Section 528 of the BNSS are to be exercised sparingly and with circumspection, particularly where the investigation is yet to establish the precise role of the accused and accordingly prays for dismissal of the petition and for permitting the investigating agency to proceed in accordance with law.

12. We have carefully considered the rival submissions advanced by learned counsel for the parties and have perused the impugned FIR, the material placed on record and the other documents forming part of the case.

13. From a perusal of the FIR, it appears that the complainant Kamlesh Komra is the husband of deceased Smt. Draupadi Komra and has specifically alleged that his wife was initially admitted at the Community Health Centre, Bhanupratappur on 15.05.2026 in a condition of labour pain and was thereafter referred to Gautam Hospital, Bhanupratappur for further treatment. The FIR further alleges that the deceased was in a critical condition and that, despite the alleged requirement of immediate medical intervention, she was treated at Gautam Hospital, where she died during delivery on 18.05.2026 at about 3:30 a.m., and the newborn child also died shortly thereafter. The complainant has attributed the unfortunate deaths to the alleged gross negligence, improper conduct and inhuman insensitivity of the hospital management, Dr. Anil Gautam and other staff. Thus, the FIR does not merely narrate the factum of death, but contains specific allegations regarding the condition of the deceased prior to her admission at Gautam Hospital, her referral from the Government hospital, the treatment thereafter and the circumstances in which both the mother and newborn child expired.

14. At this stage, while exercising jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, this Court is required to

examine whether the allegations contained in the FIR, if taken at their face value and accepted in their entirety, disclose the commission of a cognizable offence. The allegations in the present case relate to the death of a full-term pregnant woman and her newborn child during the course of treatment at the petitioner's hospital. The FIR specifically alleges that the deceased had been referred to Gautam Hospital in a critical condition and that the subsequent medical management resulted in her death and the death of the newborn child. The question as to whether the medical treatment administered was appropriate, whether there was any deviation from the accepted medical protocol, whether any particular act or omission constituted negligence, and whether such act or omission had a direct and proximate causal connection with the deaths, are matters which require examination on the basis of the medical records, statements of the treating doctors and hospital staff, expert medical opinion and other material collected during investigation. At the stage of considering a petition for quashing, this Court cannot undertake a detailed appreciation of such material or determine the correctness of the allegations as though conducting a trial.

15. It is true that the petitioner has relied upon the fact that he was not the treating doctor and that the treatment was being administered by the concerned gynaecologist and other medical personnel. The petitioner has also relied upon the contemporaneous medical records, the reply dated 03.06.2026 to the Show Cause Notice and the subsequent administrative proceedings concerning the maternity and sonography departments. However, these circumstances, by themselves, cannot be

treated as conclusive proof that the allegations in the FIR are false or that the petitioner had no role whatsoever in the circumstances leading to the alleged offence. The precise role of the petitioner, being the Director/Proprietor of Gautam Hospital, the nature of his involvement, the responsibility of the hospital management, the treatment actually administered to the deceased and the role of the other medical personnel are all matters which have to be determined on the basis of evidence. The fact that the petitioner may not have personally administered treatment is a matter which can be urged and established by him during the course of the proceedings, but at the threshold this Court cannot, on the basis of the defence pleaded by the petitioner, conclusively determine the same.

16. Learned counsel for the petitioner has placed reliance upon the judgments of the Hon'ble Supreme Court, including **Jacob Mathew** (supra), **Dr. Suresh Gupta** (supra), **Martin F. D'Souza** (supra), **Kusum Sharma** (supra) and **Supriya Kumari M.C.** (supra), contending that criminal liability for medical negligence requires a higher degree of negligence and that an unfortunate medical outcome, by itself, cannot constitute criminal negligence. There can be no quarrel with the aforesaid settled proposition. However, the question whether the allegations made in the present FIR ultimately satisfy the requisite threshold of criminal negligence is a matter which depends upon the evidence and medical material available in the case. The principles relating to the higher threshold for criminal medical negligence cannot be applied at the stage of quashing so as to undertake an assessment

of the sufficiency or reliability of the evidence, particularly when the FIR prima facie sets out allegations concerning the treatment of the deceased and the circumstances resulting in the deaths of both the mother and the newborn child.

17. The delay of approximately 73 days in registration of the FIR has also been relied upon by the petitioner. From the record, it is evident that immediately after the incident, the health authorities initiated administrative proceedings and issued a Show Cause Notice dated 02.06.2026, to which the hospital submitted its reply dated 03.06.2026. An administrative order was thereafter passed on 23.06.2026 concerning the functioning of the maternity and sonography departments. The FIR was ultimately registered on 30.07.2026. However, the effect and significance of the delay, as well as the circumstances in which the complaint came to be lodged after the administrative proceedings, are matters which may be considered during investigation and, if necessary, at the appropriate stage of the criminal proceedings. Delay, by itself, particularly when the FIR otherwise discloses allegations requiring investigation, cannot be treated as a sufficient ground for quashing the criminal proceedings at the threshold.

18. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the

investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if 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, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C. (now 528 of the B.N.S.S.).

19. The Hon'ble Supreme Court in the matters of ***Rupan Deol Bajaj v. K.P.S. Gill*** reported in ***(1995) SCC (Cri) 1059***, ***Rajesh Bajaj v. State of NCT of Delhi*** reported in ***(1999) 3 SCC 259*** and ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E Ltd. & Ors*** reported in ***2000 SCC (Cri) 615***, the Supreme Court clearly held that if a prima facie case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there is no controversy about the legal proposition that in case a prima facie case is made out, the FIR or the proceedings in consequence thereof cannot be quashed.

20. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***, ***2021 SCC OnLine SC 315***, the Hon'ble Supreme Court has authoritatively settled the scope of the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973 (now

Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The Apex Court has held that the power to quash criminal proceedings is required to be exercised sparingly, with circumspection and only in the rarest of rare cases. It has been categorically observed that while considering a prayer for quashing an FIR or criminal proceedings, the High Court cannot embark upon an enquiry into the reliability, genuineness or otherwise of the allegations contained in the FIR, nor can it appreciate the evidence or conduct a mini trial. The Court is only required to examine whether the allegations, if taken at their face value, disclose the commission of a cognizable offence. The Supreme Court further emphasized that criminal proceedings ought not to be scuttled at the threshold, that investigation into cognizable offences should ordinarily be permitted to proceed unhindered, and that the extraordinary jurisdiction under Section 482 Cr.P.C. must be exercised with great caution and self-restraint, save in exceptional cases where non-interference would result in manifest miscarriage of justice.

21. Very recently, in ***Pradeep Kumar Kesharwani v. State of Uttar Pradesh & Another (Criminal Appeal No. 3831 of 2025, decided on 02.09.2025)***, the Hon'ble Supreme Court reiterated the aforesaid principles and further held that while exercising jurisdiction under Section 482 Cr.P.C. (now Section 528 of the BNSS), the High Court cannot adjudicate disputed questions of fact or evaluate the evidentiary worth of the material collected during investigation. Unless all these parameters are cumulatively satisfied, the High Court ought not to interfere in exercise of its inherent jurisdiction, leaving the parties to

establish their respective cases before the trial Court in accordance with law.

22. Applying the principles laid down by the Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd.*** (supra) and ***Pradeep Kumar Kesharwani*** (supra), we are of the considered view that the present case does not fall within the category of cases where the allegations in the FIR, even if accepted in their entirety, fail to disclose any cognizable offence or where the continuation of proceedings would manifestly amount to abuse of the process of law. The FIR contains allegations which require investigation into the circumstances surrounding the treatment and deaths of the deceased and her newborn child. The defence of the petitioner that no specific negligent act is attributable to him personally, that he was not the treating doctor, and that the treatment was administered by other medical professionals, involves factual questions which cannot appropriately be adjudicated in the present proceedings.

23. In the considered opinion of this Court, the present matter requires the investigating agency to examine the complete medical record, the circumstances in which the deceased was referred from the Government Hospital to Gautam Hospital, the condition of the deceased at the time of admission, the treatment and medical intervention undertaken thereafter, the role of the treating doctors and other hospital personnel, and the precise role, if any, attributable to the petitioner. The medical records, treatment papers, duty roster, investigation material

and expert medical opinion, if collected during investigation, would have to be considered in their proper perspective. This Court, while exercising its inherent jurisdiction, cannot conduct a mini-trial or weigh the respective versions of the parties to determine whether the alleged medical negligence ultimately stands established.

24. Consequently, at this stage, we find no sufficient ground to interfere with the impugned FIR in exercise of the jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The allegations contained therein, when taken at their face value, warrant investigation and cannot be held to be inherently absurd, inherently improbable or wholly devoid of any factual foundation. The contentions raised by the petitioner regarding his individual role, the absence of a specific negligent act, the nature of the administrative proceedings and the applicability of the principles governing criminal medical negligence are left open to be considered at the appropriate stage on the basis of the material brought on record.

25. Accordingly, finding no merit in the present petition, the same is **dismissed**. It is, however, made clear that the observations contained in this order are confined strictly to the consideration of the petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not be construed as an expression of opinion on the merits of the allegations or the guilt or innocence of the petitioner. The petitioner shall be at liberty to raise all factual and legal contentions available to him before the competent Court, which shall consider the same

independently and in accordance with law, uninfluenced by any observation made herein.

26. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu