



2026:KER:31088

Crl.R.P No.773/2019

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 7<sup>TH</sup> DAY OF APRIL 2026 / 17TH CHAITHRA, 1948

CRL.REV.PET NO. 773 OF 2019

AGAINST ORDER DATED 21.03.2019 OF THE COURT OF THE  
ASSISTANT SESSIONS JUDGE (ADDL.) PALAKKAD IN CRL MP  
NO.350/2017 IN S.C NO.778/2016

PETITIONER/ACCUSED

DR.K.K.GOVINDAN  
SAI', AMBIKAPARA, PALAKKAD

BY ADVS.  
SRI.SOORAJ T.ELENJICKAL  
SRI.C.R.SYAMKUMAR  
SRI.P.A.MOHAMMED SHAH  
SMT.V.A.HARITHA  
SRI.SIDHARTH B PRASAD  
SHRI.ASWIN KUMAR M J  
SMT.HELEN P.A.

RESPONDENT/STATE & DE FACTO COMPLAINANT:

1 STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM, PIN - 682031

2 MAJEED, CHUNGAKKAD HOUSE,  
KAVASSERY, ALATHUR, PALAKKAD, PIN - 678541

SRI SUDHEER.G, PUBLIC PROSECUTOR  
BY ADV SHRI.U.BALAGANGADHARAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
ADMISSION ON 17.02.2026, THE COURT ON 07.04.2026 DELIVERED  
THE FOLLOWING:

**ORDER**

The order dated 21.03.2019 of the Additional Assistant Sessions Court, Palakkad in S.C No.778/2016 framing charges against the accused in the said case for the commission of offence under Sections 304A I.P.C, and forwarding the case to the Judicial First Class Magistrate Court-III, Palakkad under Section 228 Cr.P.C for trial, is under challenge in this revision petition filed by the accused in that case.

2. The petitioner herein is an Anesthetist Doctor, who had been working in a private hospital by name Palghat Poly Clinic. A 23 year old lady, who delivered a baby on 11.09.2014, had undergone Post Partem Sterilization (PPS) surgery in that hospital on 13.09.2014. The petitioner was the Anesthetist, who attended her during that time. After the surgery performed in between 6:30 p.m and 8:40 p.m on 13.09.2014, the above lady died due to peripartum cardiomyopathy caused as a result of primary pulmonary hypertension. Initially, an F.I.R was registered under Section 174 Cr.P.C in connection with the aforesaid death. Later on, the offence



under Section 304 I.P.C was incorporated against the petitioner herein, and the Gynaecologist who conducted the surgery. After considering the report of the District Level Expert Committee of Doctors, the Investigating Officer laid the final report against the petitioner herein alone, for the commission of offence under Section 304 I.P.C, in connection with the aforesaid death of that lady after PPS surgery. It was alleged that the failure of the petitioner to conduct pre-anaesthetic check-up had resulted in the complications leading to the death of that lady.

3. The petitioner filed Crl.M.P No.350/2017 before the learned Additional Assistant Sessions Judge, seeking discharge from criminal prosecution. After hearing both sides, the learned Additional Assistant Sessions Judge came to the conclusion that the offence under Section 304 I.P.C is not attracted, in the facts and circumstances of the case. However, it was found that there were prima facie materials to proceed against the petitioner for the commission of offence under Section 304A I.P.C. Accordingly, the learned Additional Assistant Sessions Judge framed charges under the aforesaid Section, and passed the order under Section 228 Cr.P.C forwarding the case to the Judicial First Class Magistrate concerned



for proceeding with the trial. It is the aforesaid order, which is under challenge in this revision petition.

4. Heard the learned counsel for the revision petitioner, and the learned Public Prosecutor representing the State of Kerala.

5. As already stated above, gross negligence in administering treatment is attributed to the petitioner herein, stating the reason that he gave anesthesia to the deceased lady, without conducting pre-anesthetic check-up, prior to her PPS surgery. According to the prosecution, the aforesaid omission was the cause of death of that 23 year old lady, who delivered a female child without any medical complications, two days prior to her death. The report of the District Level Expert Committee consisting of five Senior Medical Officers including Specialists in Gynaecology and Paediatrics and the D.M.O concerned, is relied on by the prosecution in support of the aforesaid allegation. The findings in the postmortem report are also pointed out by the prosecution to contend that the petitioner displayed gross negligence by his failure to conduct pre-anesthetic check-up upon the deceased lady before proceeding with the process of anaesthesia.

6. The petitioner strongly disputes the aforesaid allegation about his failure to conduct pre-anesthetic check-up upon the lady,



who lost her life due to peripartum cardiomyopathy, after the procedures of PPS. According to the petitioner, the hospital records would reveal that he had conducted the aforesaid check-up. The copy of the case sheet, the copy of post transfusion report of blood and the copy of anesthesia record produced as Annexures-A3 to A5 respectively, are relied on by the petitioner in support of the aforesaid contention. Thus, it appears that the matter to be resolved is essentially a dispute of fact as to whether the petitioner had conducted pre-anesthetic check-up upon the deceased, before proceeding with the process of giving anesthesia to her.

7. Annexure-A2 is the copy of the report of an expert panel consisting of the District Medical Officer and four other Specialist Doctors of Gynaecology, Paediatrics, Surgery and Forensic Medicine. In the aforesaid report, it has been stated in unequivocal terms that the hospital case records and the postmortem report would disclose that pre-anesthesia check-up, which is the essential part before a surgery, was not done upon the deceased lady. For the above reason, the panel of expert doctors unanimously found that the Anesthetist was negligent in that respect. Thus, the indications in Annexure-A2 report of the expert panel is that the hospital case records did not



reveal that the petitioner had conducted pre-anesthetic check-up upon that unfortunate patient. The factual position in the above regard could be ascertained only after the examination of the expert panel members, who are cited as CW28 to CW32 in the final report. So also, the authenticity of Annexures-A3 to A5, and also the question whether the entire hospital records pertaining to the treatment administered to that deceased lady were placed before the expert panel members, or not, could be ascertained only after examining the responsible persons of the hospital concerned. At any rate, the dispute of fact in the above regard cannot be dealt with by this Court in this revision proceedings since it requires the recording and evaluation of evidence.

8. As matters stand now, the findings in the postmortem report, as well as the report of the expert panel, are to the effect that the surgery of the deceased lady was conducted without pre-anesthetic check-up which the petitioner was bound to conduct before proceeding with the application of anesthesia upon her. If it is found that no pre-anesthetic check-up was done upon the deceased lady, it would definitely point to gross negligence on the part of the petitioner. The question whether the complaints of primary



pulmonary hypertension leading to peripartum cardiomyopathy could have been detected in a pre-anesthetic check-up, is a different aspect. What could be understood from authoritative medical text books is that a pre-anesthesia check-up can raise suspicion or detect it if symptoms or signs of the aforesaid complaints were present in the patient. If such a medical condition could have been detected from any symptoms or signs of the patient, then definitely adequate precautionary measures could have been taken to save the life of the patient. When viewed in the above perspective, the failure to conduct pre-anesthetic check-up would definitely amount to gross negligence, even though such a check-up could have averted casualty only in such cases where the primary pulmonary hypertension and peripartum cardiomyopathy were symptomatic in the patient. The question whether the deceased lady had any such symptoms indicative of the aforesaid ailments could be ascertained only after the examination of the medical officers concerned who had the occasion to observe that lady prior to the delivery and also immediately after delivery. Thus, the aforesaid factual aspect is also a matter to be looked into by the Trial Court at the stage of evidence. At any rate, it is not possible for this Court to invoke the revisional powers to terminate the prosecution



2026:KER:31088

*Crl.R.P No.773/2019*

8

proceedings against the petitioner, since the documents on record point to the failure of the petitioner to conduct pre-anesthetic check-up upon the deceased lady before giving anesthesia. As a conclusion to the above discussion, I find that the prayer of the petitioner to discharge him from the criminal prosecution for the commission of offence under Section 304A I.P.C, cannot be allowed.

In the result, the revision petition is hereby dismissed.

(sd/-)

**G. GIRISH, JUDGE**

jsr



APPENDIX OF CRL.REV.PET NO. 773 OF 2019

**PETITIONER ANNEXURES**

- ANNEXURE A1 TRUE COPY OF THE FINAL REPORT DATED 14.09.2014
- ANNEXURE A2 TRUE COPY OF THE REPORT OF THE EXPERT PANEL DATED 30.01.2015
- ANNEXURE A3 TRUE COPY OF THE CASE SHEET REGARDING THE PATIENT MAINTAINED IN THE HOSPITAL WITH RESPECT TO THE RELEVANT DATES IE.12.09.2014 AND 13.09.2014
- ANNEXURE A4 TRUE COPY OF THE PRESCRIPTION FOR BLOOD TESTING OF THE PATIENT ON 12.09.2014 AND 13.09.2014 AND THE POST TRANSFUSION REPORT OF BLOOD DATED 13.09.2014
- ANNEXURE A5 TRUE COPY OF THE ANAESTHESIA RECORD DATED 13.09.2014
- ANNEXURE A6 TRUE COPY OF THE CRL. M.P.NO.350/2017 BEFORE THE ASSISTANT SESSIONS COURT, PALAKKAD