

SUPREME COURT OF INDIA

Manorama Tiwari & Ors.

Vs.

Surendra Nath Rai

Crl.A.No.1193 of 2015

(Dipak Misra and Prafulla C.Pant,JJ.,)

10.09.2015

JUDGEMENT

Prafulla C.Pant, J.,

1. Leave granted.

2. This appeal is directed against order dated 16.4.2012, passed by the High Court of Judicature Chhattisgarh at Bilaspur, in Criminal Revision No. 220 of 2002 whereby said Court has disposed of the criminal revision, affirming order of the Magistrate by which application Under Section 197 of the Code of Criminal Procedure, 1973 (Code of Criminal Procedure) moved by Appellants was rejected. Brief facts of the case are that Miss Tapsi Rai, aged 14 years, daughter of Respondent Surendra Nath Rai, underwent surgery on 5.8.1997 in Maharani Government Hospital, Jagdalpur, Bastar. The operation necessitated due to pain developed by the patient in the abdomen, was performed by the Appellants, namely, Dr. (Smt.) Manorama Tiwari, Dr. B.R. Kawdo and Dr. Pradeep Pandey. Before conducting the surgery, consent to operate was taken from the Respondent. However, even after surgery, the condition of the patient did not improve, and she died on the same day.

3. A First Information Report was lodged by the Respondent after lapse of more than five months, i.e. on 2.2.1998 relating to offence punishable Under Section 304A of Indian Penal Code at Police Station, Jagdalpur against Dr. Manorama Tiwari and Dr. Pradeep Pandey (Appellant Nos. 1 and 3 respectively). Meanwhile, enquiry was got conducted on the complaint of the Respondent under orders of the District Magistrate, in which report dated nil shows that the surgeons were opined to be negligent. However, subsequently another enquiry was held under orders of the Government, in which Joint Controller Health Services, Bastar, submitted his report dated 11.3.1998 with the finding that there was no negligence on the part of the surgeons.