

**Master Devarsh vs Union of India & Ors.**

**Master Devarsh vs Union of India & Ors.**

**SooperKanoon Citation :** [sooperkanoon.com/1263478](https://sooperkanoon.com/1263478)

**Court :** Delhi

**Decided On :** Feb-26-2026

**Judge :** Hon'Ble Ms. Justice Neena Bansal Krishna

**Appeal No. :** W.P.(CRL)/1092/2019

**Appellant :** Master Devarsh

**Respondent :** Union of India & Ors.

**Advocate for Pet/Ap. :** Mr. K.K Manan, Mr. Ajay Kumar Agarwal, Mr. Sachin Jain, Ms. Udit Bali, Mr. K.S Choudhary, Mr. Lavish, Ms. Tanya

**Judgement :**

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 22nd December, 2025 Pronounced on: 26th February, 2026 + W.P.(CRL) 1092/2019, CRL.M.A. 11985/2019, CRL.M.A. CRL.M.A. 4984/2023, CRL.M.A. 8835/2023, CRL.M.A. MASTER DEVARSH Son of Ms. Sapna Jain Resident of: 253, SFS DDA Flats, Mukherjee Apartment, Dr Mukherjee Nagar, Delhi-110009 minor. Through his mother Ms. Sapna Jain as Next Friend .....Petitioner Through: Mr. K.K Manan, Sr Adv along with Mr. Ajay Kumar Agarwal, Adv, Mr. Sachin Jain, Ms. Udit Bali, Adv, Mr. K.S Choudhary, Adv, Mr.

Lavish, Adv and Ms. Tanya, Advocate.

versus

1. UNION OF INDIA

Through Ministry of Home Affairs (Through its Secretary) 10, Janpath Road, North Block Central Secretariat, Janpath Road Area, Motilal Nehru Marg Area, New Delhi 110001

2. COMMISSIONER OF POLICE Delhi Police Headquarters, MSO Building, Indraprastha Marg IP Estate, New Delhi-110095

3. GOVT OF NCT OF DELHI Through Secretary W.P.(CRL) 1092/2019 & Connected matter Page 1 of 18 Delhi Secretariat IP Estate, Delhi-110002

4. DIRECTORATE GENERAL OF HEALTH SERVICES F-17, Karkardooma, Delhi-110032 Through its director

5. MEDICAL COUNCIL OF INDIA (NOW NATIONAL MEDICAL COMMISSION) Through its chairman, e Pocket- 14 , Sector - 8, Dwarka Phase -1 New Delhi - 110077

6. DELHI MEDICAL COUNCIL Now at Ground Floor, B Wing, B Block-1 DMRC IT Park, Shastri Park New Delhi-110053

7. DR. RITU VERMA (ADDED VIDE ORDER DATED 04.05.2022) 1516, Ground Floor, Outram lanes Kingsway camp, Delhi-110009

8. DR. VIVEK JAIN (ADDED VIDE ORDER DATED 04.05.2022) KU-29, Pitampurs New Delhi-110088

9. DR AKHILESH SINGH (ADDED VIDE ORDER DATED

19.04.2023) D-251, Second Floor, Defence Colony, New Delhi -110024  
.....Respondents Through: Mr. T Singhdev, Mr. Vedant Sood, Advocates

for R2. Mr. T. Singhdev, Mr. Tanishq Srivastava, Mr Abhijit Chakravarty, Mr. Bhanu Gulati, Ms. Yamini Singh, Mr. Sourabh Kumar, Mr. Vedant Sood, Ms. Ramanpreet Kaur, Advocates for R5. Mr. Praveen Khattar & Mr. Pritam Kumar Adv. for R6. Mr. Arjun Dewan and Mr. Jasraj Singh

W.P.(CRL) 1092/2019 & Connected matter Page 2 of 18 Chhabra, Advocates for R7 to R9. Mr. Ripudaman Bharadwaj CGSC with Mr. Kushagra Kumar and Adv. Mr. Amit Kumar Rana, Advocates for UOI. + W.P.(CRL) 3537/2019, CRL.M.A. 26014/2022

1. DR. RITU VERMA d/o Madan Mohan Verma, r/o 1516/ Ground Floor, Oulram Lines, Kings way Camp, Delhi - 110009

2. DR. AKHILESH SINGH s/o Mr. Ramesh Singh, r/o Flat No - 26, 4th Floor, Block - AE, Shalimar Bagh, New Delhi - 110088

3. DR. VIVEK JAIN s/o Mr. Suresh Jain, r/o KU -29, Pitampura, New Delhi - 110088 .....Petitioners Through: Mr. Arjun Dewan and Mr. Jasraj Singh Chhabra, Advocates.

versus

1. STATE OF NCT OF DELHI Through the office of Standing- Counsel

2. SMT. SAPNA JAIN

C-706, Kenwood Towers, Charmwood Village, Suraj Kund, Faridabad - 121009 Also at Plat No.253, SFS DDA Flats, Mukherjee Apartment, Dr. Mukherjee Nagar, Delhi -110009 ....Respondents W.P.(CRL) 1092/2019 & Connected matter Page 3 of 18 Through: Mr. Sanjeev Bhandari, ASC for the State. Mr. K.K Manan, Senior Advocate along with Mr. Ajay Kumar Agarwal, Adv, Mr. Sachin Jain, Adv, Ms. Udit Bali, Adv, Mr. K.S Choudhary, Adv, Mr. Lavish, Ms. Tanya, Advocates for R2. Mr. Ripudaman Bharadwaj CGSC with Mr. Kushagra Kumar and Adv. Mr. Amit Kumar Rana, Advocates for UOI.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

## **J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. The aforesaid two Writ Petitions have been filed in regard to the

Petitioner, Master Devarsh having suffered alleged medical negligence and injury of infantile spasm, severe epilepsy, physical disabilities and mental retardation, on account of the alleged negligence of Fortis Hospital, Shalimar Bagh and its Doctors.

2. Writ Petition (Crl.) No.1092/2019 filed on behalf of the Petitioner, Master Devarsh seeks directions for proper investigations and action against the erring Doctors.

3. W.P. (Crl.) 3537/2019 has been filed by the Petitioners, Dr. Ritu

Verma, Dr. Akhilesh Singh, Dr. Vivek Jain seeking quashing of the FIR No.0480/2019 dated 01.10.2019 under Section 336/337 of the Indian Penal Code, 1860 (hereinafter referred to as IPC) P.S. Shalimar Bagh registered against them and is pending investigations.

4. The brief facts are that Master Devarsh was delivered on 12.08.2017 at Fortis Hospital, Shalimar Bagh. At the time of C-Section delivery, the

W.P.(CRL) 1092/2019 & Connected matter Page 4 of 18 child suffered severe Asphyxia (hypoxic injury), leading to complete damage of the brain of the new born child.

5. The child was kept in Neonatal ICU for 11 days and was thereafter, discharged by the Hospital vide Discharge Summary which indicated Baby has no neurological concern throughout stay.

6. In the Petition filed on behalf of Master Devarsh, it was asserted that

there was absolute lack of coordination and due diligence in handling the delivery of the child by the concerned Doctors and staff of the Hospital, leading to the hypoxic injury about which the parents of the child were kept in complete dark and the child was handed over to them as a fit and normal baby. Immediately after discharge, the parents found the child suffering from some jerks. They took the child to the Consulting Doctor, who advised them to ignore the jerks.

7. It was claimed that from his birth on 12.08.2017 till March, 2018 i.e.

for about 8 months, the child was speechless, he kept writhing in unbearable pain in his head, but there was no clue to the parents that he had undergone brain haemorrhage at the time of birth. Eventually, the child started missing the desired milestones and his body started getting more and more stiff.

8. The parents took the child once again to the Doctor, who then finally

declared after a lapse of significant time which was crucial for the normal growth of the child, that he is a special needs child and needs to be shown to a Neurological Paediatrician for further treatment.

9. The EEG and MRI of the child was conducted and it was revealed

that he was suffering from rare disease called West Syndrome caused due to severe damage in the brain. It was then unravelled that the child suffered the Brain Haemorrhage due to asphyxia, at the time of birth. He is dependent W.P.(CRL) 1092/2019 & Connected matter Page 5 of 18 upon painful and harsh Occupational Therapies and is surviving on bitter in pungent medicines including steroids.

10. A Criminal Complaint was made to the Police under Section 308,

325, 338, 193, 201, 406, 420, 471, 120-B, 34 IPC against Fortis Hospital, its Management and the Doctors for causing grave injury to the brain of

the child and keeping it concealed from the parents. No action was taken by the Police. Eventually, a Complaint along with an Application under Section 156(3) Cr.P.C was filed before the learned M.M. Rohini Courts. However, despite efforts, no fruitful action has been taken.

11. It is further asserted that a Complaint was made to DGHS (Director

General Health Services) and Health Minister, Govt. of NCT of Delhi for taking action against the erring Hospital and for causing injury to the child, orchestrating false Medical Records and withholding the OT Notes. The cognizance was taken by the Honble Minister, who directed a detailed Enquiry through Panel of Experts and to furnish a factual Report within 12 days.

12. The Director, DGHS was obligated to constitute the Board and get the

opinion, but nothing in the matter has been done and it has been deferred for indefinite time. The Board was supposed to have three Members, but none of them was an expert in the field. To make a complete farce of the proceedings, two of the three members were missing and one who was present, was not concerned about the gravity of the situation. Due to this apathetic and lackadaisical attitude of the Authorities towards the fundamental rights of the child, the Writ Petition had been preferred in the Court.

W.P.(CRL) 1092/2019 & Connected matter Page 6 of 18

13. The main grounds agitated in the Writ Petition on behalf of the

Petitioner, Master Devarsh are that all the doors have been virtually shut by the Respondent, by denying the investigation into the brain injury caused to the Petitioner who is a victim of low levels of ethics, standards to which the Corporate Hospitals have descended. The injury that was sustained by the child during birth, has undergone various physical and

biological changes and the desperate delay caused by the Respondents, had rendered the entire process of investigation as redundant.

14. There was a prima facie case for commission of the offence under

IPC, despite which no FIR was registered. The Police has not been cooperating and investigating the matter with sensitivity. The Doctors till date, have denied to give any opinion in writing regarding the injuries suffered by the child as the same might go against the other Doctors of the Hospital. The Court cannot proceed unless the Medical Opinion is given by a Doctor. It has become a vicious circle where it has become almost impossible for the victim to get justice.

15. The DGHS under the aegis of Govt. of NCT of Delhi has shown a

bias in favour of the offending Hospital, which has resulted in travesty of justice against the victim of crime. The matter has been deferred for 8 months without any proceedings. A Board was constituted sans experts of adequate strength. The two of its three members were missing in the first and last meeting. An attempt has been made to the Respondents to give an unlawful quietus to the matter.

16. The Delhi Medical Council (DMC) on the other hand, has done injustice to numerous victims who approach the Council in pursuit of justice. The Medical Council has given clean chit to the Doctors of Max

W.P.(CRL) 1092/2019 & Connected matter Page 7 of 18 Hospital. In a recent case there was similar medical negligence of the Doctors of Max Hospital, Shalimar Bagh. In December, 2017 they handed over twins as dead, but one child was found to be alive.

17. The conduct of Medical Council and DGHS in deliberately

obstructing the cause of justice, is in complete violation of fundamental rights guaranteed under Article 14 and 21 of the Constitution of India. Reliance is placed on CESC Ltd. vs. Subhash Chandra Bose, (1992) 1 SCC 441, wherein it was held that Article 21 of Constitution recognises the right to live with human dignity. The physical and mental health have to be treated as integral part of right to life.

18. The Constitution Bench in Common Cause vs. Union of India, 2018

(1) SCC 1 held that the right to life and liberty under Article 21 of Constitution of India is meaningless unless it encompasses the sphere of individual dignity.

19. A prayer is, therefore, made for appointment of an independent

Committee of Medical Experts comprising Radio-neurologists and Neurological Paediatrician to opine about the nature of injury and on medical condition of the child and prognosis to transfer the Complaint to CBI or any other competent Agency other than the Police for carrying out the time bound probe into the incident.

20. W.P. (Crl.) 3537/2019 under Article 226/227 Constitution of India

read with Section 482 Cr.P.C has been filed by Dr. Ritu Verma and two other Doctors, for quashing of FIR No.0480/2019 dated 01.10.2019 on the ground that there was no negligence on the part of the Doctors. The DMC in its Report dated 13.08.2019, had categorically held that there was no negligence in the treatment of the baby.

W.P.(CRL) 1092/2019 & Connected matter Page 8 of 18

21. In Jacob Mathew vs. State of Punjab, AIR 2005 SC 3180, Supreme

Court has held that before proceeding against the Doctor accused of rash or negligent act or omission, the Investigating Officer should obtain an independent and competent medical opinion, preferably from a Doctor

in Government Service qualified in that Branch of medical practice, who can normally be expected to give an impartial and unbiased opinion. The Petitioner stand exonerated of any negligence in the treatment of the child, by the DMC Report.

22. Even though the Status Report of the Investigating Officer dated

04.09.2019 and the opinion of the Medical Board dated 13.08.2019 reflected that there was no medical negligence attributable to the Petitioner, the FIR has been directed to be registered against them.

23. Reliance is placed on Shri Subhkaran Luharuka & Anr. vs. State & Anr., (2010) 170 DLT 516; Maksud Saiyed vs. State of Gujarat and Ors.,

(2008) 5 SCC 668; and Anil Kumar and Ors. vs. A.K. Aiyappa, (2013) 10 SCc 705 to say that there must be application of mind before directing registration of FIR under Section 156(3) Cr.P.C.

24. Similar observations have been made by the Supreme Court in the case of Priyanka Srivastava and Anr. vs. State of Uttar Pradesh and Ors.,

(2015) 6 SCC 287.

25. The importance of Preliminary Enquiry in cases of medical negligence has been emphasized by the Supreme Court in the case Lalita Kumari vs. Government of Uttar Pradesh and Ors., (2004) 2 SCC 1.

26. In the present case, a Preliminary Enquiry by way of an opinion, has been sought from Medical Board on the Complaint, by Investigating Agency. The Medical Board had given an opinion of No Negligence.

W.P.(CRL) 1092/2019 & Connected matter Page 9 of 18 Therefore, the registration of FIR was erroneous and without any basis or justification. It has not been considered that there exists no possible way of determining the time when the Hypoxic injury was suffered by the child, which is an accepted medical principle. In laymans terms, it refers to a brain injury

suffered as a result of oxygen deprivation. During the stay of the child in the NICU in the Hospital, he was put on respiratory support immediately after birth and 6 days thereafter. There was no occasion for the child to be deprived of Oxygen at the Hospital. The hypoxic injury could have occurred at any period beginning from the time the child was in the womb of the mother. There is no method to ascertain the cause and time of hypoxic injury. Therefore, there is no requirement of scientific investigations and the directions for registration of FIR, was without basis.

27. The learned M.M. while directing registration of FIR, failed to

consider that the allegations that treating Doctor failed to conduct tests like MRI or EEG on the baby, is fallacious. It is submitted that the Tests such as Blood count, Liver, Kidney and Respiration were conducted on the child. Tests like MRI and EEG, are conducted only on persons where there is an indication of Neurological concern. The child during the 12 days stay in NICU, did not display any sign of Neurological concern and there was no occasion to conduct the aforesaid Tests.

28. In the case of V. Krishan Rao vs. Nikhil Super Speciality Hospital,

2010 5 SCC 513, the Supreme Court had emphasized the importance of obtaining the opinion of another Doctor before proceeding with criminal investigation. In Krishna Dixit vs. State of Chhattisgarh and Ors., W.P. (Cr.) No.146 of 2016, the High Court of Chhattisgarh held that the principles laid down by the Supreme Court in Jacob Mathew, (supra) and Martin F.

W.P.(CRL) 1092/2019 & Connected matter Page 10 of 18 DSouza, (supra) for registration of Criminal Case against a Doctor, an Expert opinion from a qualified Doctor must be obtained before directing registration of FIR under Section 156(3) Cr.P.C. Hence, the Petition/Doctors sought the quashing of the FIR.

29. The initial Status Report had been filed by the SHO, Shalimar Bagh

was followed by a detailed Status Report dated 27.08.2022. It has been explained in the Status Report that Complaint dated 09.07.2018 was received from Complainant, Sapna Jain (Mother of Petitioner, Master Devarsh), in Police Station Shalimar Bagh. It was stated by her in the Complaint that she was taking treatment of her pregnancy from Dr. Ritu Verma since beginning. On 12.08.2017 seeing the Ultra Sound Report, she planned an emergency C-Section. She was admitted in the Fortis Hospital and on the same day i.e. 12.08.2017 the Petitioner, Master Devarsh was delivered at 09:56 P.M by Dr. Ritu Verma, (Paediatrician), Dr. Akhilesh (Anaesthetist) and other assisting Doctors and staff of the Hospital.

30. As per the Complaint, there was some tense atmosphere in the O.T.,

but the Complainant was unable to comprehend anything. The child was shifted to NICU around 11 P.M. The Complainant was informed by the Doctors that the baby had not cried for some time after birth and he was put on CPAP and would be kept in ICU for a few days. The child remained in the ICU for today 12 days, during which period he was treated by different doctors and nurses, as appointed by the Management of the Hospital. He was finally discharged on 23.08.2017 with false Fitness Certificate by the Hospital, thereby giving an impression that the child was Neurologically fine. During 23-25 August, 2017 while the child was at home, it was noticed that he had some jerks.

W.P.(CRL) 1092/2019 & Connected matter Page 11 of 18

31. Dr. Vivek Jain was consulted on 25.08.2018 who after check-up,

ignored the symptoms and observed that there was nothing significant with the child and he was 100/100 fit. The Complaint asserted that after about 6- 7 months, the child stopped recognizing the Complainant. They

got the MRI and EEG of the child conducted. It was revealed in EEG, that the child suffered from severe Epilepsy.

32. A shocking fact was revealed that the child had suffered Hypoxic

injury during birth and was suffering from West Syndrome i.e. Brain retardation and severe Epilepsy due to bleeding in the brain. However, the cause of injury was not disclosed to them, by the Doctors. The negligence of Doctors on 12.08.2017 and gross criminal conduct of the Management and Hospital in screening the truth for 12 days stay in ICU and even thereafter, for all these months caused irreparable injury to the brain and health of the child.

33. The Complainant further asserted that the records supplied to them by the Directors have been fabricated by the alleged persons with malafide intent to mislead medical Council and the Court proceedings.

34. On the Complaint under Section 156(3) Cr.P.C, the learned M.M

directed on 27.09.2019 to register the FIR. Consequently, FIR No.0480/2019 dated 01.10.2019 under Section 336/337 IPC was registered at Police Station Shalimar Bagh.

35. After the registration of FIR, the Complainant procured the medical

treatment papers of the child, which have been examined during the investigations. Notice under Section 91 Cr.P.C dated 14.11.2019 was served on Dr. Ritu Verma, who instead of joining the investigations has filed W.P. No.3537/2019 for quashing of the FIR. W.P.(CRL) 1092/2019 & Connected matter  
Page 12 of 18

36. During the investigations, Dr. Ritu Verma gave a Reply which was received on 17.02.2020. It was stated in the Reply that it is not a practice at her Clinic to retain any prescription or any record given to the patients.

37. Dr. Vivek Jain (HOD) Neonatal was also served with a Notice under

section 91 Cr.P.C on 26.02.2020 who replied that prescriptions in original are handed over to the patients and he had electronic copy of two prescriptions, but the manually written advice would not be included in the same.

38. Likewise, Notice under Section 91 Cr.P.C was issued to Fortis Hospital on 27.02.2020, to obtain the details of the Doctors and other alleged staff Officers of the Organization.

39. Reply dated 09.03.2022 has been received from the Hospital. Notice of the Complaint was also served on the Complainant with queries and questions other than the Complaint, so that the same may be put before the Board.

40. It has been further explained that as technical opinion is required

whether the negligence occurred and if any, then to what extent. A proper correspondence vide Letter dated 13.12.2019 was made for the formation of the Medical Board to All India Institute of Medical Sciences. However, AIIMS rejected the request and stated that they constitute Medical Boards only in exceptional cases and that too on the directions of Supreme Court, High Court, National Consumer Dispute Redressal Commission etc. vide its Letter dated 18.12.2019. Thereafter, on the directions of the learned M.M., Medical Superintendent, AIIMS was directed to constitute a Medical Board afresh, to ascertain the negligence and false conducted during the trial.

W.P.(CRL) 1092/2019 & Connected matter Page 13 of 18

41. The relevant papers and documents were sent to M.S., AIIMS on

11.09.2021 requesting for constitution of Medical Board. M.S., AIIMS intimated to the learned M.M., Rohini Court on 16.09.2021 that the Legal Authority to investigate, re-examine the case of the alleged negligence which has already been examined by DMC, would be National Medical Commission and accordingly, requested that the matter be referred to NMC.

42. The Application was filed by the I.O. before the learned M.M. to issue

the directions to National Medical Commission for constitution of a Medical Board which was allowed vide Order dated 21.09.2021. However, National Medical Commission in its Letter dated 02.12.2021 stated that it was not empowered under the provision of NMC Act, 2019 to provide any opinion in regard to initiation of criminal proceedings as well as it was not the Appellate Body of the DMC and the matter may be referred back to AIIMS Hospital for constitution of Medical Board.

43. Further investigations were done by serving Notice to Dr. Ritu

Verma, Hospital and other persons. The copy of Discharge Summary of other child born one month prior to 12.08.2017 and Contract documents of Dr. Ritu Verma, were collected.

44. Notice under Section 91 Cr.P.C dated 27.07.2022 was served on Dr.

Vivek Jain to explain about 100/100 remark to Baby of Sapna Jain, as per the Prescription Slip dated 25.08.2017. It was explained that 100/100 remark was for the progress since discharge, as the baby was doing well at home.

45. Further investigations were carried out and Request Letter dated

01.06.2022 was sent to Deputy Secretary, Health and Family Welfare Department, GNCT, Delhi for referring the matter to competent Hospital. It was referred to Govind Vallabh Pant Hospital on 14.06.2022 which stated W.P.(CRL) 1092/2019 & Connected matter Page 14 of 18 that they were not having any Gynaecology or Paediatric Department and were unable to constitute the Medical Board.

46. The matter was then referred to Lok Nayak Hospital, Delhi Gate. The

Medical Boards have been constituted, but every time the Doctors have sought exclusion on the ground that the Complainant on one ground or the other. A request was, therefore, made that further directions be given for re- constitution of Medical Board to get the opinion about the medical negligence.

47. In the Status Report dated 11.01.2023 filed in the Writ Petition of Dr. Ritu Verma and other doctors, the entire facts as detailed earlier were reiterated.

48. It is also submitted that vide Order dated 22.12.2022, the Court noted that despite several requests of Complainant and her husband blood gas report as well as resuscitation notes were not recovered by the I.O. and SHO.

49. Thus, a question arose that whether it is standard procedure for the

hospital to make a note with regard to the neurological condition of a new born child without conducting the necessary test like MRI and EEG test. In compliance of the Order dated 22. 12.2022, a letter dated 04.01.2023 was issued to Guru Teg Bahadur Hospital, Delhi seeking opinion on the said question. The opinion from Guru Teg Bahadur Hospital, Delhi is still awaited.

50. Lastly, it was stated that the investigation is still at the nascent stage and is yet to be concluded.

51. The Complainant submitted the Written Submissions, wherein it was asserted that there was a gross concealment of facts, fabrication of medical

W.P.(CRL) 1092/2019 & Connected matter Page 15 of 18 records, destruction of evidence and deprivation of the child of proper treatment for many months which aggravated the brain damage. Such actions amount to cognizable offences and are not reliable to be treated as a case of medical negligence as envisaged in the case of Jacob Mathew, (supra).

52. It is a fact that the accused Dr. Vivek Jain and Dr. Akhilesh Singh,

were indeed found to be quacks. They falsely treated the child, while he was in Neonatal ICU as Speciality Doctors. They have been falsely practising as Specialists without possessing the requisite qualifications.

The Judgment of Jacob Mathew, (supra) is not applicable to the Accused Doctors; rather it incriminates them.

53. The Complainant has further stated that a Closure Report has been

filed in the FIR in which a Protest Petition has already been filed by the Complainant. It is claimed that the Police did not act fairly and acted in apparent influence of the accused persons. The Complainant on the strength of incriminating evidence collected by them, have filed the Protest Petition, which is pending consideration.

54. Moreover, the Order passed by DMC in favour of the Accused

persons on the basis of which quashing is sought, has already been stayed by the Coordinate Bench of this Court in W.P.(C)15/2020. The Accused persons have got themselves impleaded in the proceedings and are well aware of the Order, but have failed to place the said Order on record. There is concealment of subsequent events and documents. The documents which have been filed in W.P. 1092/2019 has not been placed on record in these Writ Petitions.

W.P.(CRL) 1092/2019 & Connected matter Page 16 of 18

55. In the end, it is stated that a Judicial Order cannot be challenged by way of the Writ Petition. Submissions heard and record perused.

56. The main grievance of the Petitioner, Master Devarsh in the Writ

Petition filed through his mother, was that an FIR be directed to be registered on account of medical negligence and lack of proper treatment being given to the child at the time of his birth, resulting in hypoxic injury and consequent neurological disorder.

57. However, it is evident from record that FIR No.0480/2019 dated 01.10.2019 under Section 336/337 IPC, P.S. Shalimar Bagh had already been registered on

the directions of the learned M.M. under Section 156(3) Cr.P.C.

58. It has further come on record that various directions had been given

by the learned M.M. for constituting a Medical Board for giving the medical opinion, which eventually was constituted at Guru Teg Bahadur Hospital, Delhi. The opinion from said Hospital pursuant to Order dated 22.12.2022 is also awaited. Therefore, the grievance of the Petitioner, Master Devarsh about taking proper legal action and registration of FIR, stood addressed.

59. In so far as the quashing of FIR is concerned, it has come on record

that a Closure Report has been filed by the Police and Protest Petition has been filed by the Complainant. Therefore, there survives nothing for the quashing of the FIR, in terms of the Closure Report. The Complainant is already pursuing her remedy in accordance with law and has filed the Protest Petition.

60. It does not need to be emphasized that whatever is the outcome of the Protest Petition, the parties would have a remedy in accordance with law.

W.P.(CRL) 1092/2019 & Connected matter Page 17 of 18 The filing of a Protest Petition by the Complainant indicates that the statutory remedy is being actively pursued. Any interference at this stage, would amount to pre-empting the judicial determination pending before the competent Court.

61. All rights and contentions of the parties are left open to be urged

before the competent Court, in accordance with law. No further directions are merited in the aforesaid two Writ Petitions, which are hereby, disposed of along with the pending Application(s). (NEENA BANSAL KRISHNA) JUDGE FEBRUARY 26, 2026 VA W.P.(CRL) 1092/2019 & Connected matter Page 18 of 18

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**