

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-27718 of 2015 (O&M)

Date of decision : 20.8.2015

Swati and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Madhu Mukul Tripathi, Mr.Navank S.Misra and
Mr.Rahul Bhargava, Advocates for the petitioners.

JITENDRA CHAUHAN, J. (Oral)

1. This petition has been filed under Section 482 Cr.P.C. for quashing the FIR No.41 of 2015 under Sections 306/34 IPC dated 26.1.2015, registered at Police Station Civil Lines, Karnal, Haryana and all the consequential proceeding arising therefrom.

The gist:

2. On 26.1.2015 at about 4 p.m. Lalit Gupta (Lalit Bindal) hanged himself with a ceiling fan. The brother of the deceased Amit Gupta got the FIR registered which reads as under :-

“It is requested that I Amit s/o Surendra Kumar Gupta is the resident of House No.394 Sector 14, Karnal. We are five brothers, the eldest is Lalit Kumar, the one younger to him is Sumit, the one younger to him is Puneet, I am younger to Puneet and the youngest brother Nitish lives in Australia.

My brother Lalit was married on 18.1.2014 to Swati Rohtagi d/o Bal Govind Rohtagi House No.1/11700 Panchsheel Garden Naveen Shahadra Delhi-32. My Bhabhi Swati lived with my brother only for a day and the next day she started saying that she will not stay here and will go back to her home. My parents informed the father of Swati about it on which the family members of Swati took her away saying that they will return her after three to four days. Then after Swati, Bal Govind, Swati's Jija Mohit and her sister Neha started harassing us unduly and Swati registered a case of dowry against us at Delhi. The things given in dowry was already taken away by the family members of Swati in which they got my brother Lalit challaned.

On 7.8.2014 Swati registered case no.576 dated 7.8.2014 under section 354, 342, 376, 34 IPC at P.S.Sadar Karnal against all our family members which was cancelled by PS Sadar karnal on 30.9.2014 as the facts stated therein were found to be false.

All our family members were scared of the family members of Swati and Lalit suffered mental distress. All our family members by reason of getting disturbed came under the pressure of Swati's family and compromised at Delhi for Rs.45 lacs. Even after the compromise Swati, her father Bal Govind, Jija Mohit and sister Neha kept on unduly harassing us. On account of the harassment of the above mentioned persons my brother Lalit hanged himself from the fan with a shawl.

When I and my driver went to Lalit's room upstairs we found him hanging from the fan. On bring him down dead and at the same time my mother also came there. This incident took place at about 4 in the evening.

My brother committed suicide by hanging on account of the harassment by Swati, Bal Govind, Jija Mohit and Neha, strict legal action should be taken against the afore-mentioned.

My brother's dead body was lying in the room on the double bed I have given you the application.”

3. The deceased was married to Swati, the petitioner No.1. The petitioner No.2 is the father of the petitioner No.1; Neha, the petitioner No.3 is the sister of the petitioner No.1 whereas the petitioner No.4 Mohit Aggarwal is the husband of the petitioner No.3. On 7.8.2014, Swati, the petitioner No.1 got an FIR No.576 dated 7.8.2014 under Sections 354, 342, 376/34 IPC at Police Station Sadar, Karnal registered against the family members of the deceased which was ultimately cancelled on 30.9.2014. Another FIR No.487/2014 under Sections 498-A, 406, 34 IPC and Sections 3 and 4 of D.V.Act was registered on 7.8.2011 at Police Station Shahdra, Delhi against Lalit the deceased and others. These cases were compromised and the husband Lalit (since deceased) had to pay ₹45 lacs to the wife towards full and final settlement vide Annexure P-3 in two installments whereby it was settled to dissolve the marriage.

4. Learned counsel for the petitioners drew the attention of this Court towards document (Annexure P-5) the true translation of the suicide note, which reads as under:

“Papa and Mummy I love you both very much. Please understand my helplessness. Try to share your problems with each other if possible. Please I am doing all this because today I'm extremely hopeless of all of you. Please forgive me and be with each other with love. There is no role of Prachi in this don't do anything to her let her be happy.

I love you all.

Sd: Lalit”

Learned counsel stressed that even if the contents of the suicide note are taken to be true in the absence of any allegation, no case against the petitioner is made out. He further contended that petitioner No.1 had been pursuing her legal remedy, which cannot be construed as 'abetment' as per Section 107 of the Indian Penal Code. He contended that infact the deceased was under severe depression due to the marriage of his girl friend Prachi on 25.1.2015 against his wishes, with some other person, which is reflected in the suicide note. He contended that no offence is made out against any of the petitioners.

The learned counsel has cited the following judgments:

- (i) *S.S.Chheena Vs. Vijay Kumar Mahajan and another* 2010(95) AIC 96
- (ii) *Sunder Babu and others Vs. State of Tamil Nadu* 2009(14) SCC 244
- (iii) *Crl.Misc. No.19544 of 2011 titled as Indu @ Komal & others Vs. State of Haryana and another decided on 13.3.2012.*
- (iv) *Crl.Misc. No.28058 of 2008 titled as Jeet Singh Vs. State of Punjab and another decided on 3.9.2013*
- (v) *Crl.Revision No.1650 of 2002 titeld as Kewal Krishan and another Vs. State of Punjab decided on 6.11.2008*

5. I have considered the contentions of the learned counsel for the petitioners and have gone through the paper book with his able assistance.

6. Section 107 of the Indian Penal Code reads as under:

“Abetment of a thing—A person abets the doing of a thing, who—

(First)—Instigates any person to do that thing; or

(Secondly)—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly)—Intentionally aids, by any act or illegal omission, the doing of that thing.”

7. In this case, investigation is still in progress. The contentions raised by the learned counsel for the petitioner do not cut much ice. The first information report is neither a substantive piece of evidence nor an encyclopedia containing details of the occurrence. It may not be even necessary to catalogue the overt acts on the part of the accused to instigate or aid in committing suicide. Only the essence of the investigation can bring true picture on the surface. It will not be fair to nip the investigation without asserting the reason behind suicide. No doubt the powers under Section 482 Cr.P.C. possessed by the High Court, are very wide but the same have to be exercised with great caution on sound principles. In the instant case, the entire facts collected during investigation have not been brought before the Court as the investigation is still going on. This Court will refrain itself in exercising its discretion at such a crucial stage. The contents of the suicide note cannot be commented upon at this stage least it may either way influence the course of investigation. The police is to probe the authenticity of the suicide note and to ascertain as to how the suicide note came in possession of the petitioners. Whether the FIR is bonafide

or malafide, could only be determined by the trial Court after proper appraisal of the evidence led by the parties. The case law cited by the learned counsel for the petitioners need not to be elaborately discussed here. Petitioners No.3 and 4 are on anticipatory bail while petitioners no.1 and 2 are interim bail in this case.

8. Without commenting on the suicide note or the allegations made in the FIR, this Court feels that no case for quashing of FIR is made out at this stage, therefore, the petition is dismissed. However, the petitioners are at liberty to raise all the pleas at the appropriate stage.

9. Dismissed.

20.8.2015
Meenu

(JITENDRA CHAUHAN)
JUDGE