

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

CRM-M-6003 of 2015

Date of decision: March 10, 2015

Swati and others

.... Petitioners

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ashish Gupta, Advocate
for the petitioners.

Mr. Charanjit Singh Bakshi, Addl. AG, Haryana.

Mr. Vikram Dhakla, Advocate
for the complainant.

Jaspal Singh, J.(Oral)

This petition has been preferred under Section 438 of the Code of Criminal Procedure by the petitioners feeling apprehension of their arrest in case FIR No. 41 dated January 26, 2015 under Section 306 read with 34 IPC registered at Police Station Karnal Civil Lines, Karnal, District Karnal.

The instant FIR has been lodged by complainant-Amit Gupta brother of deceased-Lalit Gupta on the allegations that his brother has committed suicide by hanging himself in his house due to harassment meted out to him at the hands of his wife Swati, Bal Govind Rohatgi-Father-in-law, Neha, sister of his wife and Mohit Aggarwal, husband of his wife's sister in connection with matrimonial affairs.

Learned counsel for the petitioners contended that right from the day of marriage of petitioner No.1 with deceased, there was a dispute and deceased accompanied by his friend came to the hotel where petitioner No.1 was taken immediately after marriage. After administering some intoxicant, not only he, but his friend also, committed rape upon her.

Subsequently, a compromise (Annexure P-3) was arrived at in between the parties on January 05, 2015. Thereafter, there was no live link between petitioners and the deceased or his family members. The petitioners even condoned the acts of the deceased by compromising the matter in FIR No. 576 dated 07.08.2014, under Sections 354, 342, 376 and 34 IPC registered at Police Station Sadar, Karnal. The deceased committed suicide at his own residence and at that time petitioner No.1 was residing with her parents. In fact, no offence under Section 306 IPC is made out either against petitioner No.1 or his father or his sister or his sister's husband. Even, petitioner Nos. 3 and 4 are neither signatory to the alleged compromise nor witness to any case and are living separately since the date of their marriage. They have nothing to do with matrimonial dispute which arose in between petitioner No.1 and deceased. Moreover, petitioners are ready to join the investigation and abide by all the terms and conditions, in case they have been granted concession of pre-arrest bail.

Learned State counsel assisted by learned counsel for the complainant contends that though marriage of petitioner No.1 was solemnized with deceased-Lalit Gupta, brother of complainant on January 18, 2014 yet she stayed only for one day. Next day she showed her intention not to live with him as she was in love with some other boy. Her parents have got her married without her consent. This fact is also evident from various documents Annexures C-1 to C-19. An information to this effect was also conveyed to the father of petitioner No.1 who took her along with him by saying that he will send her back after 2/4 days by making her understand. Not only this, she got registered FIR No. 487 dated 07.08.2014 under Sections 498-A, 406 and 34 IPC and Section 3/4 of Dowry Prohibition Act, 1961 at Police Station Shahdara, District North East Delhi. She also got registered another case bearing FIR No. 576 dated 07.08.2014 under Sections 354, 342, 376 and 34 IPC at Police

Station Sadar, Karnal, District Karnal. That case was found to be false during enquiry and cancellation report was filed on September 30, 2014. Entire family of Lalit Gupta was under stress and under pressure of petitioner No.1 and her family, a compromise was effected in between the parties. According to which, an amount of ₹45,00,000/- was to be paid by the deceased to petitioner No.1. It was only after the compromise, Lalit Gupta was released on bail. Since the petitioners had harassed him mentally as well as physically and pressurized him to affect compromise. When he was bailed out, he committed suicide. The allegations against petitioners are serious and grave in nature and their custodial interrogation is necessary. As such, learned State counsel as well as learned counsel for the complainant prayed for dismissal of the instant petition.

It is an undisputed fact that marriage of deceased was solemnized with petitioner No.1 on January 18, 2014 but she only stayed there for one day. Ultimately, she got registered a case by lodging complaint in the Court of learned Magistrate. She levelled allegations not only against her husband but against his friend also that they committed rape upon her after administering some intoxicant, which were found false during investigation. There is no medical evidence also to establish the rape or administering the intoxicated material. Even, allegations have also been levelled against father of the deceased. In fact, it appears that petitioner No.1 was having love affair with some other boy and did not intend to live in the company of deceased. Even, it appears that her marriage was solemnized against her wish. The deceased was arrested in the above-referred case after registration of FIR, subjected to custodial interrogation and remained behind the bars till he was released on bail that too, after alleged compromise dated January 05, 2015. According to which he was to pay a sum of ₹45,00,000/- to petitioner No.1. Taking into consideration the seriousness and gravity of offence and other factors

discussed above, this Court is of considered view that no case is made out to exercise the discretion envisaged under Section 438 Cr.P.C. so far as petitioners No.1 and 2 are concerned who actively participated in the registration of FIR as well as effecting a pressurised compromise and ultimately abetment to the deceased to commit suicide.

Now coming to the role of petitioners No.3 and 4, they are real sister and sister's husband of the wife of the deceased, who are separately in mess and residence. Petitioner No.3 is married and living with her husband in her in-laws house. They are neither witnesses in the criminal cases got registered by petitioner No.1 against the deceased and his family members nor they are signatories to the alleged compromise dated January 05, 2015.

This Court is of the considered view that they both deserve the concession of pre-arrest bail. Petition filed on their behalf stands allowed and petitioners No.3 and 4 are directed to join the investigation within 15 days from today and to join further investigation and cooperate as and when required by the police and they shall also abide by the following conditions, as envisaged under section 438(2) Cr.P.C:

- (i) a condition that the petitioners shall make themselves available for interrogation by a police officer as and when required;
- (ii) a condition that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade them from disclosing such facts to the Court or to any police officer;
- (iii) a condition that the petitioners shall not leave India without the previous permission of the Court;

The failure of any of the conditions mentioned above may entail the withdrawal of this order.

In the light of what has been discussed above, petition has been dismissed qua petitioners No.1 and 2 whereas it stands allowed qua petitioners No.3 and 4.

March 10, 2015
sham

(JASPAL SINGH)
JUDGE