

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M 24173 of 2016

Date of decision : September 28, 2016

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Harvinder Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sanjeev Manrai, Senior Advocate with
Mr. Sumit Jain, Advocate for the petitioners.

Mr. A.P.S Gill, AAG, Punjab.

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RITU BAHRI, J.

The petitioner is seeking quashing of the FIR No.28 dated 9.4.2016 under Sections 306/34 IPC at Police Station Sadar, Tehsil Sunam, District Sangrur (Annexure P-1) on the basis of compromise dated 29.6.2016 (Annexure P-2).

The aforesaid FIR was registered on the statement made by Avtar Singh to the effect that his daughter Amandeep Kaur was married with Preet Singh and out of this wedlock, one daughter Anurith Kaur was born. Preet Singh, who was a habitual consumer of intoxicants, sold his entire land and started harassing Amandeep Kaur. Amandeep kaur got a divorce from Preet Singh in the year 2010. In the year 2011, Amandeep

Kaur was remarried to Harvinder Singh. From this wedlock, one son Harjot Singh was born and Anurith Kaur from the first marriage of Amandeep Kaur was also residing with them. In spite of giving an amount of ₹2 Lacs at the time of marriage, after about 8-9 months of the marriage, Harvinder Singh also started harassing Amandeep Kaur for want of dowry and cash. On 9.4.2016 at about 8:30 a.m Gurtej Singh ex-member Panchayat Village Chhata Sekhwa told Avtar Singh on phone that today at about 7.30 a.m, Amandeep Kaur and Harvinder Singh were fighting with each other and thereafter Amandeep Kaur hanged herself on the ceiling fan with her *dupatta*. On reaching the house of Harvinder Singh, Avtar Singh saw the dead body of his daughter Amandeep Kaur lying on cot and there were signs on her neck. He got registered an FIR on the allegation that her daughter Amandeep Kaur died due to torture and harassment by Harvinder Singh on account of dowry.

After registration of the FIR, a compromise dated 29.6.2016 (Annexure P-2) has been effected between the parties. Vide order of this Court dated 19.7.2016, parties to the compromise were directed to get their statements recorded before the Illaqa Magistrate/trial Court, Sangrur and the Illaqa Magistrate/trial Court, Sangrur was directed to send the report with regard to the validity or otherwise of the compromise after recording the statements of all the concerned parties before the date fixed. In compliance of the order dated 19.7.2016, a status report has been received from the additional District and Sessions Judge, Sangrur to the effect that the parties have compromised the matter voluntarily and without any pressure.

The question for consideration before the Court is whether the proceedings initiated under Section 306 IPC can be quashed being non-

compoundable. Reference can be made to two judgments passed by this Court *Sucha Singh and others vs. State of Punjab and another, 2011 (7) RCR (Criminal) 2546*, wherein prayer was made for quashing of the FIR in a case where a married woman committed suicide after about 14 years of her marriage. FIR was registered on the allegations that victim committed suicide because of the harassment caused by accused persons. However, there was no such allegation that the petitioner had instigated, provoked, incited or encouraged the daughter of the complainant to commit suicide. It was held that the provisions contained in Section 107 Indian Penal Code are not attracted in the instant case and as such no offence under Section 306 Indian Penal Code was made out. The compromise was effected to help the families to resume normal life. Matter was amicably settled between the parties. FIR was quashed

In *Tipendra @ Tikendra @ Tinku vs. State of Rajasthan and another 2016 (1) Crimes 706*, petitioner prayed for quashing of the FIR registered by respondent no.2 against the petitioner for the offence punishable under Section 306 IPC on the basis of compromise arrived at between the parties. In this case the dispute between the parties was in relation to suicide committed by the daughter of respondent no.2, wherein respondent no.2 has alleged that the petitioner got married with her deceased daughter and due to non-compatibility she committed suicide. The dispute between the parties had already been settled amicably and the respondent no.2 did not want to press the allegations levelled in the impugned FIR. FIR lodged against the petitioner was quashed while exercising powers under Section 482 Cr.P.C. Reference was made to a judgment of Hon'ble the Apex Court in the case of *Gian Singh vs. State of*

Punjab and another JT 2012 (9) SC 426.

Recently the Supreme Court in the case of **Shiji @ Pappu and others vs. Radhika and another 2012 (1) RCR (Criminal)** held that the High Court has power to quash the prosecution under Section 482 Criminal Procedure Code even in cases where the offences with which the accused stand charged are non-compoundable. It was further held that the power under Section 482 Cr.P.C can be exercised, where there is no chance of conviction of accused and the entire exercise of a trial is destined to be an exercise in futility.

In view of the above mentioned judgments and the status report dated 5.9.2016 filed by the Additional Sessions Judge, Sangur, FIR No.28 dated 9.4.2016 under Sections 306/34 IPC at Police Station Sadar, Tehsil Sunam, District Sangrur (Annexure P-1) is quashed qua the petitioners.

September 28, 2016
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes

Whether reportable No