

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24954-2016

Date of Decision:- 23.09.2016

Jagdeep Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Kanwaljit Singh, Senior Advocate
with Mr. Ajaivir Singh, Advocate
for the petitioner.**

Mr. J.S. Riar, AAG, Punjab.

RITU BAHRI, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.6 dated 23.01.2016, under Section 302 read with Section 34 IPC, registered at Police Station Dera Baba Nanak, District Batala, as also all consequential proceedings including the challan under Section 306 IPC on the basis of compromise dated 08.03.2016 (Annexure P-7).

Brief facts of the case are that wife of the petitioner, namely, Daljeet Kaur, after seven years of marriage had committed suicide in the year 2016. Out of this wedlock, son, namely, Abhijot Singh, aged about five years, is in the custody of the petitioner. After marriage there was no

complaint against the petitioner and as per the post-mortem report there was no injury. The cause of death as per the report of the chemical examiner was that she had consumed Choloro-compound, an insecticide. The deceased was taken to hospital immediately by the petitioner and his mother and the doctors during investigation held that the deceased had taken Celphos poison. The FIR has been got registered by brother of the deceased on the suspicion that her sister had been murdered by the petitioner and his mother.

After investigation, as per report dated 28.03.2016 an offence under Section 306 IPC was made out against the petitioner and challan (Annexure P-8) was presented only against the petitioner.

Perusal of challan (Annexure P-8) shows that the allegations against the petitioner (husband), Harjinder Kaur (mother-in-law) and Navpreet Kaur @ Pinki (sister-in-law) are that they had harassed the sister of the complainant without any reason and told her to get money from her parents. The family members of the deceased used to give money to her as a help. On account of continuous beatings and harassment to sister of complainant, on 22.01.2016 at about 6.00 in the morning, she was admitted in serious condition in EMC Hospital, Purana Kakkar Hospital, Amritsar and she died in the evening. Perusal of challan further shows that accused Harjinder Kaur, Navpreet Kaur @ Pinki, Jagdeep Singh were not found to be present at the time of occurrence and the medicine was found to be taken by deceased Daljit Kaur herself. The offence under Section 302 IPC was removed and Harjinder Kaur and Navpreet Kaur had declared innocents. As per chemical report, offence under Section 306 IPC was found to be committed by accused Jagdeep Singh and challan was presented in this

background.

After presentation of the challan, the complainant along with his family have now decided to compromise the matter and as per compromise (Annexure P-7), they have come to confirm that death of Daljit Kaur was not occurred at the instance of accused Jagdeep Singh and they have no objection if the criminal proceedings initiated against the petitioner are quashed.

During the course of preliminary hearing, the trial Court, was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise dated 08.03.2016 (Annexure P-7), by way of order dated 25.07.2016, by this Court.

In compliance of order dated 25.07.2016 of this Court, the report of Judicial Magistrate, 1st Class, Batala dated 15.09.2016 has been received. As per report, the statements of all the concerned parties have been recorded and the complainant has no objection, if the present FIR registered against the petitioner is quashed. Statements of the petitioner and complainant have been recorded to the same effect.

Now the question for consideration would be that whether the challan under Section 306 IPC can be quashed on the basis of compromise. Reference, at this stage, can be made a judgment of this Court in **Sham Lal and another** Vs. **State of Punjab and another**, 2012(8) R.C.R. (Criminal) 432 whereby FIR has been registered under Section 306 IPC against the petitioners with the allegations that deceased had committed suicide as the petitioners had not returned his money which he has taken as loan. Consequently, the proceedings initiated in the FIR were quashed on the basis of compromise as there was no abetment on the part of the petitioners.

Similarly, in the case of Sucha Singh and others Vs. State of Punjab and another, 2011(7) R.C.R. (Criminal) 2546, where a married woman committed suicide after about 14 years of her marriage. There was no instigation, no intentional aid or illegal omission on the part of the accused persons and the disputes had been amicably resolved and the FIR was quashed. It was further held that abetment under Section 107 IPC was not attracted. The meaning of word 'instigate' has been considered by Supreme Court in case Ramesh Kumar Vs. State of Chhatisgarh, 2001(4) RCR (Crl.) 537 where it has been held that "instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'.

The Supreme Court in Sanju alias Sanjay Singh Sengar Vs. State of Madhya Pradesh, 2002(2) RCR (Criminal) 687, held that the deceased committed suicide on the third day of the quarrel after the accused told him to commit suicide cannot be held that the suicide was direct result of quarrel. There was enough time to the deceased to think over and reflect. Consequently, the accused was acquitted by the Court.

The Delhi High Court in Vishesh and another Vs. State (Govt. of NCT of Delhi) & another, 2015 (9) R.C.R. (Criminal) 734 on an occasion had considered the case of compromise quashing where the offence was under Sections 307 and 34 IPC. In that case no injury has caused to the victim and weapon of offence has not been recovered by the police. In that situation, the possibility of conviction is remote and bleak. The accused remained in jail for 6-7 days. Therefore, in order to maintain peace and harmony in locality and considering fact that continuation of criminal proceeding would tantamount to abuse of process of law despite

that criminal case is put to an end. Keeping in view the peculiar facts of the case and by referring to the judgment of Supreme Court in Gian Singh Vs. State of Punjab and another, 2012, 2 SCC (L&S) 998, the FIR was quashed by the Court while exercising the inherent powers conferred under Section 482 Cr.P.C.

In Nakul and another Vs. Puneet Kumar and another, 2016 (4) AD (Delhi) 320, the FIR registered against the petitioners under Sections 308 and 34 IPC was quashed on the basis of compromise. The offence punishable under Section 308 IPC is not compoundable being of serious nature, however, after considering the facts and circumstances of the case and in exercise of the inherent powers under Sections 482 Cr.P.C., the Court has accepted the compromise by following the guidelines laid down by Hon'ble the Supreme Court in case of Narinder Singh and others Vs. State of Punjab and another, (2014) 6 SCC 466.

In Minakshi Kundu and others Vs. State (Govt. of Nct of Delhi) and another, 2016(1) AD (Delhi) 716, the FIR had been registered on account of scuffle between the parties regarding some property disputes. After filing the charge-sheet and before framing of charges, all the disputes were amicably settled between the parties. Consequently, in order to maintain peace between the parties, the proceedings initiated under Sections 435, 506 and 34 IPC were quashed on the basis of compromise.

In Jagmeet Singh Vs. State of Punjab and another, 2016(3) R.C.R. (Criminal) 633, the FIR registered under Section 307 IPC was quashed on the ground that there was no injury caused on the person of the complainant or the injured. As per opinion of doctor, no offence under

Section 307 IPC was made out and at the most it was a case of offence

under Section 325 IPC. The possibility of conviction after compromise was bleak and even after framing of charges, the proceedings can be quashed.

In the present case, perusal of compromise (Annexure P-7) shows that the complainant had accepted that his sister committed suicide and he had no grudge against the petitioner (husband of deceased). Moreover, minor five years old child is in the custody of petitioner.

Consequently, in view of report of Judicial Magistrate, 1st Class, Batala dated 15.09.2016 and after taking into consideration the facts of the present case, which do not constitute an offence under Section 306 IPC, no useful purpose would be served in prolonging the litigation.

Accordingly, FIR No.6 dated 23.01.2016, under Section 302 read with Section 34 IPC, registered at Police Station Dera Baba Nanak, District Batala, as also all consequential proceedings including the challan under Section 306 IPC is hereby quashed on the basis of compromise dated 08.03.2016 (Annexure P-7).

The present petition stands disposed of.

September 23, 2016
naresh.k

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No