

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

CRR No.3378 of 2015

Date of Decision: July 11, 2016

Narender Kumar and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Anshumaan Dalal, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. Amit Jaswal, Advocate
for the complainant.

FATEH DEEP SINGH, J.

In this bid for initiating powers under Section 401 Cr.P.C. of this Court by way of revision the petitioners Narender Kumar, Manoj Kumar and Nasib Singh have sought to challenge the orders dated 08.07.2015 passed by the learned Additional Sessions Judge, Rohtak. The petitioners are facing accusations in case got registered by way of FIR No.151 dated 31.05.2014 under Sections 306,34 IPC, Police Station, Urban Estate, Rohtak and have been charge-sheeted under Sections 306,34 IPC. The allegations of the prosecution in brief are that during the intervening night of 30th-31st May, 2014 in the area of Suncity Road, Rohtak, Gautam, son of Rishal Singh and his daughter Khushi, a small child, committed

suicide on account of abetment by Pinki, wife of Gautam and the accused including the present petitioner with whom she was having extramarital affairs and regarding which affairs it is alleged that accused were instrumental in preparing her video clipping in objectionable postures.

Learned trial Court observing that there was prima facie evidence to this effect had framed the charges and has sought to rely upon law laid down in *AIR 2000, SC 522* in the case of *Kanti Bhadra Shah and another vs. State of West Bengal* to bear out that there was no need to give reasons what has necessitated as to the framing of the charges. Learned counsel for the petitioners has sought to harbour around the arguments that mere on account of the deceased being fed-up with the wife on the grounds that she was having amorous relations cannot be adduced that the wife is guilty of abetment and has sought to place reliance on *2008(2) RCR (Criminal) 562 State of Punjab vs. Kamaljit Kaur @ Bholi and another; 2011(2) Law Herald 1419 Saroj vs. State of Haryana; 2008(2) RCR (Criminal) Sohan Raj Sharma vs. State of Haryana; 2015(2) MPHT 271 Pappu Khare vs. State of M.P* to impress upon the Court that hypersensitivity of the husband over such a suspicion does not clothes the accused with any culpability. It is well entrenched principle of law that at the time of framing of charges the Courts have to follow the principle of prima facie case and is not supposed to critically evaluate the evidence so collected by the prosecution which forms part of the report under Section 173 Cr.P.C. This fact has been comprehensively adjudicated where reliance has been placed on settled view including that case of *R.S. Nayak vs. A.R. Antulay AIR 1986 SC 2045*. The ratios cited by learned counsel for the

petitioners do not in any manner come to the aid of the petitioners on account of factual disparity.

In the present case the FIR has been got lodged by Rishal Singh, father of the deceased, who had stated in no uncertain terms that deceased Gautam was married on 29.06.2012 with Pinky daughter of Rajender Singh of District Gurgaon and that on 22.5.2014 the wife had taken away the minor daughter of the couple to reside at Gurgaon as the wife was having amorous relations with number of persons and which fact has been duly confided by the deceased to the complainant father and during this period upon some sort of arrangement on 22.5.2014 the deceased brought back her minor daughter to his house and had also tried to bring back the wife and, thereafter, he is alleged to have been found dead in a car bearing No.HR-35G-0028 along with minor daughter. Admittedly and so is established on the record on the basis of Forensic Science Laboratory report both the deaths occurred on account of sulphos poisoning. The complainant father has categorically stated in his statement about this fact that the accused Pinki, wife of the deceased's character has forced him to take this step. Coupled with the suicide note recovered by the Police during the investigations, on perusal of the same a graphic account has been given as to the very manner of the conduct of the accused-wife, who inspite of being married having a child was very much adamant and inspite of innumerable warnings of the husband and inspite of assurance from the girl side that she will mend her ways carried on blatantly her amorous relations. Thus, an element of intentionally inciting, aiding and forcing him to this situation. Though, the very affect of the suicide note left behind by the

deceased dated 30.5.2014 is subject matter of outcome of the trial but at this juncture clearly reflects how on account of conduct of the wife the husband has been forced to take this extreme step. The desolate husband in his suicide note has depicted his plight after going through the video clippings of the wife in a compromising position with different persons and her resolve to carry on with the same inspite of being desisted from doing so and her adamant conduct is in itself suggestive that by her offensive act she has instigated the deceased who out of the ignominy of disrepute by her acts had forced the husband to take such a extreme step and her co-accused being fully aware of had given this abetment a catalytic effect. The wife is a grown up woman and understands the very affect of her conduct and being aware of the repercussions that are likely to have upon the husband who has been compelled to leave his village are matters which certainly tantamounts to indirect instigation. Though, at this stage, the Court is constrained to observe the shoddy manner of the investigations whereby, they have failed to take on the record all this material for obvious reasons but at the same time the material collected is sufficient enough to prima facie charge the accused. The impugned order does not suffers from any impropriety or illegality, thus, the instant revision petition being hopelessly without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

July 11, 2016
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