

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

**CRM No.M-38469 of 2015
Decided on: 03.05.2017**

Satnam Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Anil Chawla, Advocate,
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab.

Mr. Deepak Sabherwal, Advocate
for respondent No.2.

REKHA MITTAL, J.

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') for quashing FIR No.271 dated 31.12.2014 under Sections 306 of the Indian Penal Code (in short 'IPC') registered at Police Station Sadar Tarn Taran, District Tarn Taran and proceedings emanating therefrom.

Counsel for the petitioners has submitted that Satnam Singh – petitioner No.1 was married to Rajbir Kaur, daughter of the complainant on 23.03.2008. On 04.10.2008, the complainant/respondent No.2 came to meet Rajbir Kaur in the matrimonial house and took her along with on a promise that he will leave her in the matrimonial house within 2-3 days and at that time she was in the third month of pregnancy. The complainant did not fulfill his promise nor Rajbir Kaur came back to the matrimonial house. Satnam

Singh along with others went to their house, requested them to send back the girl to the matrimonial house but they refused on the pretext that she was being harassed and also put a condition that first they should get his house transferred in her name. It is further argued that Satnam Singh filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights in which Rajbir Kaur appeared; filed the written statement but later absented from the proceedings and ultimately the petition was allowed ex parte vide order dated 22.09.2011 (Annexure P2).

Rajbir Kaur (since deceased) filed a complaint under Sections 406 and 498-A IPC against the petitioners and sisters of petitioner No.1 were also arrayed as accused. The complainant levelled allegations that the accused were harassing her on account of insufficient dowry, demand of Rs.2 lacs and a car. She was given beatings on refusal to bring dowry. The allegations levelled by the complainant – Rajbir Kaur constituting offence under Sections 406 and 498-A IPC did not stand the test of judicial scrutiny and the complaint was ordered to be dismissed vide judgment dated 10.07.2014 passed by the Judicial Magistrate Ist Class, Tarn Taran and in those proceedings, Satnam Singh, his mother Surjit Kaur, sister – Tejinder Kaur and Kulbir Singh – brother faced full-fledged trial. It is further argued that Rajbir Kaur left the matrimonial house in 2009. The criminal proceedings initiated by her in the year 2009 culminated in the judgment of acquittal on 10.07.2014 but Rajbir Kaur purportedly committed suicide on 30.12.2014 for which the petitioners are sought to be indicted by raising unfounded and vague allegations. It is further submitted that on

completion of investigation, petitioners No.2 and 3, parents of Satnam Singh have been declared innocent, therefore, petition filed on their behalf was ordered to be dismissed having been rendered infructuous vide order dated 22.02.2017, passed by this Court. It has been strenuously argued that even if the allegations raised in the FIR are taken on its face value, no offence under Section 306 IPC is made out against Satnam Singh when otherwise Satnam Singh cannot be vexed twice on the same allegations of harassment/cruelty in connection with demand of dowry.

Counsel for the complainant, while refuting contentions of counsel for the petitioners, has submitted that disputed questions of fact are not amenable to adjudication under Section 482 Cr.P.C., therefore, culpability of the petitioner for offence under Section 306 IPC is left to be decided by the trial Court on the basis of evidence to be adduced by the prosecution. Counsel for the State has echoed the arguments advanced by counsel for the complainant.

I have heard counsel for the parties and perused the paperbook.

Indisputably, marriage of Rajbir Kaur with Satnam Singh was performed in March, 2008. They had been staying separately since 2009. Rajbir Kaur initiated the criminal proceedings for offence under Sections 406 and 498-A IPC against Satnam Singh and others by filing a complaint before the Judicial Magistrate Ist Class, Tarn Taran in May, 2009. Rajbir Kaur purportedly consumed poison on 30.12.2014 when she was residing with her parents.

Before advertng to rival submissions made by counsel for

the parties, it is appropriate to note some of the allegations raised in the FIR, the provisions in law dealing with punishment for offence under Section 306 IPC.

A relevant extract from the FIR recorded in Punjabi, translated in English, reads as follows:-

“... I brought my daughter to village Bhullar. Her in-laws family never asked for taking her back. Therefore, I filed a case in the Court of Illaqa Magistrate against Satnam Singh, Kulbir Singh and Surjit Kaur (mother-in-law) for demanding dowry and the girl filed a case for maintenance. The case under Section 498-A IPC was dismissed by the Court of Smt. Rajwinder Kaur, JMIC, Tarn Taran about 03 months back. In the case of maintenance before the Court of Sh. Avtar Singh, CJM, Tarn Taran, the Court ordered for payment of maintenance @ Rs.3,000/- per month. Satnam Singh has not paid any maintenance till date. My daughter was feeling fed up from the cases. She was disappointed due to pendency of case in the Court for 06 years. She had been asking that she should be rehabilitated in her matrimonial home. What would happen to her now. On 30.12.2014 at about 07:00 pm, feeling harassed at the instance of her in-laws family and Satnam Singh, Kulbir Singh, his brother and Surjit Kaur, her mother-in-law, she consumed some poisonous substance in the house, became unconscious and fell on the ground. She was admitted in Med Card Hospital, Amritsar after arranging a vehicle. During treatment she passed away at 12:30 am mid-night.”

Section 306 IPC prescribes the punishment for abetment of suicide and reads thus:-

“306. Abetment of suicide.— *If any person commits*

suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

Hon'ble the Supreme Court of India in a recent judgment **“Gurcharan Singh vs State of Punjab”, 2017(1) RCR (Criminal) 118** while dealing with the basic ingredients of offence under Section 306 IPC has held, quoted thus:-

“22. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of this constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 IPC. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 IPC, thus criminalises the sustained incitement for suicide.”

Reverting to the case at hand, there was no interaction between the deceased and the accused since she left the matrimonial home in the year 2009. The accused cannot be blamed for pendency of the criminal proceedings in the Court initiated at the behest of the

deceased when otherwise the accused were on the receiving end and faced trauma of criminal proceedings for 4-5 years though eventually came out scatheless. If the husband had not paid maintenance granted by the Court, the deceased was well within her right to take recourse to appropriate proceedings/execution proceedings for recovery of arrears of maintenance.

As has been rightly argued by counsel for the petitioners that even if the allegations raised in the FIR are taken on its face value, the same do not constitute abetment defined under Section 107 IPC in order to attract the offence of abetment of suicide in regard whereof, punishment has been prescribed under Section 306 IPC. As this Court has not appreciated any factual controversy much less examined truth or falsity of the allegations raised in the FIR, contention raised by counsel for the complainant that the matter is not amenable for examination under Section 482 Cr.P.C. is mis-conceived and merits rejection. In view of the above, I have least hesitation to conclude that criminal proceedings initiated at the behest of father of the deceased against her husband and other family members is nothing but manifestation of frustration and lodged with a clear intent to wreck vengeance due to earlier litigation between the deceased and the accused. That being so, the FIR lodged at the behest of complainant and proceedings emanating therefrom are nothing but an abuse and misuse of process of law and liable to be quashed.

For the foregoing reasons, the petition is allowed, FIR No.271 dated 31.12.2014 under Sections 306 IPC registered at Police Station Sadar Tarn Taran, District Tarn Taran and proceedings

emanating therefrom are ordered to be quashed qua petitioner No.1,
leaving the parties to bear their own costs.

03.05.2017
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No