

**4IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

Crl. Revision No. 3602 of 2017 (O&M)
Date of decision: September 25, 2018

Piyush Arora

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rachna Lal, Advocate,
for the petitioner.

Ms. Gagandeep Kaur, AAG, Haryana.

JAISHREE THAKUR, J.

1. This is a revision that has been filed under Section 401 of the Code of Criminal Procedure seeking to challenge order dated 27.7.2017, whereby the petitioner has been charged under Section 306 IPC.

2. In brief, the facts are that FIR 86 dated 17.5.2017 was registered at the instance of Rima Gautam under Section 306 IPC at Police Station Radaur, District Yamunanagar Nagar. In her statement, it was alleged by her that on 11.2.2014, she left for school at 8 AM, her son left for studies by 9 AM and her husband left for his fast food business at 11:30 AM. and her daughter namely, Shruti who studied in 12th standard, remained at home as the school was closed. Shruti committed suicide by hanging herself from the ceiling fan. Initially, it was reported that her daughter had committed suicide because of study pressure and tension and

did not suspect any one. However, a few weeks later i.e. on 20.05.2014, the complainant visited the police station and handed over two handwritten notes written in English language, one of them dated 10.2.2014, in which the deceased mentioned the name of Piyush Arora. On completion of investigation, challan was presented and charges were framed against the petitioner under Section 306 IPC.

3. Learned counsel appearing on behalf of the petitioner herein contends that there is false implication in the present case as all allegations are untrue. It is contended that the statement that has been given to the police, does not constitute any offence under Section 306 IPC, while also arguing that a reading of the note written by the deceased would reflect that she committed suicide not because of the petitioner but because things had changed in her life and she could not tolerate it. It was contended that she was not allowed to go out of the house, while also arguing that in the said note it was admitted that the deceased loved him. It is also argued that the petitioner has wrongly been charged under Section 306 IPC without considering the notes purported to be suicide notes in its true perspective. It was further submitted that the second note recovered also would not constitute an offence under section 306 IPC. In support of his argument, he relies upon the judgment rendered in **Netai Dutta Versus State of W.B. (2005) 2 Supreme Court Cases 659** and **Amalendu Pal @ Jhantu Versus State of West Bengal 2010 AIR (SC) 512** to argue that to bring case within the purview of Section 306 of Indian Penal Code, there must be an active role played by the person who is said to have instigated/abetted the commission of suicide. It is argued that ingredients of section 306 IPC are

not made out.

4. Per contra, learned counsel appearing on behalf of the respondent-State argues that the matter was thoroughly investigated and the petitioner was challaned for committing offence under Section 306 IPC. It is also argued that initially the complainant had not suspected any wrong having been done to her daughter but later discovered two notes written in English by her daughter mentioning Piyush Arora as the person responsible for her death. It is contended that notes have been subjected to examination and the handwriting of the deceased stands confirmed with her standard signatures. It is also submitted that the suicide note clearly reflects that she has been cheated by the petitioner, and on the reading of the two notes the petitioner has rightly been charged under Section 306 IPC.

5. I have heard learned counsel for the parties and have also perused the case law as cited by learned counsel for the petitioner herein.

6. The scope of quashing a charge, while exercising powers under **Section 401** Cr.P.C. has been considered by the Supreme Court in State of **M.P. vs. Mohanlal Soni, 2000 (3) RCR (Criminal) 452**, wherein it has been observed as under :-

“7. The crystallised judicial view is that at the stage of framing charge, the Court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.”

7. The Supreme Court in **Tej Bir and another Vs. State of Haryana and another, 2012 (3) RCR (Criminal) 308**, held that High

Court should restrain itself from quashing the charges only on the basis of the recitals in the FIR. The FIR does not represent the entire evidence of the case. In para 9 of the judgment, it has been further observed as under:-

“9. In the case of State of M.P. v. S.B. Johari and Ors., 2000 (1) RCR (Criminal) 523, it has been held that High Court in criminal revision cannot appreciate and weigh the materials on record for coming to the conclusion that charge against the accused could not have been framed. This Court held that the settled legal position is that at the stage of framing of charge, the High Court has to prima facie consider whether there is sufficient ground for proceeding against the accused and the High Court is not required to appreciate the evidence and arrive at the conclusion whether the materials on record are sufficient for conviction of the accused or not. The test at this stage should be, whether after accepting the charge, as framed, any case is made out.”

7. Recently, in a case reported as ***State of Rajasthan vs. Fatehkaran Madhu, (2017) 3 SCC 198***, it has been held that power of quashing criminal proceedings should be exercised very sparingly.

8. The entire thrust of the argument as raised by learned counsel for the petitioner is that charge under Section 306 IPC is not maintainable as ingredients of Section 306 IPC are not satisfied. It is also submitted that reading of the suicide note does not reflect that the petitioner had abetted the deceased to take the drastic step of committing suicide.

9. This court does not find any merit in the arguments raised by

the learned counsel for the petitioner. At the stage of framing of charge, the Court is not concerned with the proof of allegations but has to *prima facie* form an opinion whether there is a probability that the accused has committed an offence, which if put to trial could prove his guilt. The Court is not required to go into the truth or the veracity of the same nor there is any need to formulate any opinion about the prospects of conviction. The marshalling and appreciation of evidence is not in the domain of the Court. The power to quash criminal proceedings has to be exercised very sparingly and that too in the rare of the rarest cases. It is only if allegations are absolutely absurd and improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied, then the Court may interfere. The charge can be framed on the basis of strong suspicions, which exists in the present case.

10. In the present case, a detailed investigation was carried out by the prosecution before filing of the challan. The suicide note has been taken into custody and subjected to due verification confirming that the deceased had penned the second note just a day before she committed suicide by hanging from the fan. The trial Court had considered the submission of both the sides and had passed a speaking order. The accused petitioner will have an opportunity to prove his innocence after leading adequate evidence before the trial Court.

11. The case law as relied upon by the counsel is distinguishable and not applicable to the facts of the instant case, since all these judgments rendered by the Hon'ble Supreme Court were after conviction and in appeal on merits. In view of the above, there is no ground for interference by this

Court in quashing the charges that have been framed against the petitioner.

However, while dismissing the petition it is made clear that any observations made herein would not be deemed to be an opinion on the merits of the case, which in turn has to be decided on the basis of the evidence before the court.

Dismissed.

September 25, 2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No