

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

CRR No.4370 of 2017 (O&M)
Date of Decision: March 14, 2018

Ravinder Singh alias Sonu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D.S. Virk, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG Haryana.

JAISHREE THAKUR, J. (Oral)

The instant revision petition has been filed challenging the order dated 09.09.2017 passed by learned Additional Sessions Judge, Karnal, vide which the petitioner has been charge sheeted for the offences under Section 304-B, 120-B of Indian Penal Code and alternatively under Section 306 of Indian Penal Code.

2. In brief, it is submitted that the deceased Gurpreet Kaur was the first cousin of the petitioner, being the daughter of uncle (Masar) Nirmaljit Singh of the petitioner. Deceased Gurpreet Kaur met with Harwinder Singh @ Honey earlier in some family function and they both fell into love with each other and thereafter, they both proposed to their parents and being the relatives, the parents of both the families got agreed to marry them. It is

mentioned that about three years back, they got married and thereafter, they were both residing happily at their house at Karnal. It is stated that the petitioner is residing at about 100 km away from their house at Karnal and doing the work of Carpenter and due to the same he remained busy in his work. It is further submitted that the petitioner was shocked to learn with regard to the suicide committed by deceased Gurpreet Kaur by hanging herself at Karnal. Thereafter, the complainant, uncle of the petitioner, reached at Karnal with the family members along with the petitioner. At Karnal, when they met with the petitioner and after discussing with each other, the complainant asked the petitioner to make a statement against the in-laws family of the deceased to register the FIR against them. However, the petitioner refused to make any false statement, as the petitioner was not aware about any dispute between the deceased and her husband. It is stated that no demand of dowry was ever made in the presence of the petitioner. The petitioner or his wife had not intervened the married life of couple at any point of time as they had got married due to their love affair. It is further submitted that the deceased wrote a suicide note with her hand and stated in the same that she is committing suicide being fed-up from life and nobody is at any fault. The deceased specifically mentioned in her suicide note that nobody is responsible for her death and she had committed suicide due to some personal reasons. Nothing has been mentioned with regard to any demand of dowry either by her husband or by anybody else. It is mentioned that after completing the investigation, the investigating agency filed the challan against the petitioner without their being any cogent evidence against the petitioner. It is submitted that by the impugned order

dated 09.09.2017, learned trial court has issued the charge-sheet against the petitioner, without considering and perusing the challan and evidence against the petitioner, which has been challenged in the instant revision.

3. Mr. D.S. Virk, learned counsel for the petitioner argues that there are no specific allegations levelled against the petitioner with regard to demand of dowry at any point of time in the FIR nor any such evidence has been collected by the investigating agency. It is contended that the complainant has not given any specific incident, that the petitioner is also responsible for driving the deceased to put an end to her life for or in connection with the demand of dowry. It is submitted that the petitioner has been implicated only due to his refusal to make a false statement against the in-laws of the deceased. It is also argued that the petitioner is residing at about 100 km away from the house of the deceased and doing the work of carpenter and it is not possible for him to go there and demand the dowry. It is further submitted that the wife of the petitioner along with younger sister-in-law and her husband have already been found innocent by the investigating agency against whom the similar type of allegations were levelled, which were found to be false. It is also contended that the suicide note left by the deceased could not be compared in this case, because of non-availability of admitted specimen handwriting of the deceased. It is prayed that the instant revision should be allowed and the impugned order should be set aside, being illegal and arbitrary. In support of his arguments, learned counsel for the petitioner relies upon judgments of the Hon'ble Supreme Court in *State of Rajasthan vs. Fatehkaran Mehdu, 2017(2) RCR (Criminal) 1, Amit Kapoor vs. Ramesh Chander and another, 2012(4)*

RCR (Criminal) 377, State of Bihar and another vs. Shri P.P. Sharma and another, 1991 AIR (SC) 1260 and Sheoraj Singh Ahlawat and others vs. State of Uttar Pradesh and another, 2013(1) RCR (Criminal) 153.

4. Reply filed on behalf of the respondent-State is taken on record and a copy thereof has been supplied to the opposite counsel.

5. Mr. P.P. Chahar, DAG Haryana, learned counsel appearing on behalf of the respondent-State argues that the petitioner has been arrested in this case as per law and a confessional statement of the petitioner was also recorded. It is contended that on the basis of final report submitted by the police and the material available on record, the petitioner has been charge-sheeted accordingly. It is submitted that the impugned order passed by the trial court is well reasoned, therefore, the instant revision is liable to be dismissed.

6. I have heard learned counsel for the parties, apart from perusing the record.

7. By the impugned order dated 09.9.2017, the learned trial court has dismissed the application of the petitioner herein seeking discharge, with the following observations;

“A perusal of the file reveals that the handwriting of alleged suicide note left by the deceased could not be got compared for want of her specimen handwriting. As per the categorical stand of the father of the deceased, the accused-applicant also used to harass his daughter on account of the dowry demand. Merely due to the reason that the accused-applicant is an old fellow or that no recovery has effected at his instance during the investigation does not suggest to the court that he is

entitled to be discharged. At the time of framing of charge, the Court is supposed to look into a prima facie case only and it is not supposed to appraise or evaluate the evidence collected by the investigating agency on merits. Since there is a prima facie evidence against the accused-applicant in the shape of statement of the complainant to suggest that he had been in criminal conspiracy with his co-accused to commit the dowry death of Gurpreet Kaur, the application filed on behalf of the accused-applicant Gurmukh Singh is declined.....”

8. An argument has been raised by learned counsel for the petitioner that there is also an alleged suicide note left by the deceased, however, the handwriting of the same could not be compared, for want of admitted handwriting of the deceased. There are no allegations against anybody in the said suicide note with regard to demand of dowry. In fact, the deceased had mentioned in the suicide note that nobody is responsible for her death and she had committed suicide due to some personal reasons.

9. Be that as it may, the same cannot be looked into by this court, because of the non-comparison of the handwriting on the said suicide note with the admitted handwriting of the deceased.

10. This court has thoroughly gone through the FIR, which came to be lodged by the father of the deceased, wherein he has levelled allegations against his son-in-law Harwinder Singh and other in-laws of his daughter regarding misappropriation of dowry articles. In the FIR, the complainant has levelled allegations against father-in-law Gurmukh Singh, husband Harwinder Singh @ Hanni, brother-in-law Manni, elder sister-in-law Babli and her husband Sonu (the petitioner herein) and younger sister-in-law

Kanchan and her husband Sewa Singh that they harassed his daughter in collusion of each other to bring dowry. The complainant has levelled specific allegations of giving money to Harwinder Singh (husband) on account of demand for purchasing a motorcycle.

11. The reply filed by the respondent-State would reflect that except for the disclosure statement recorded by the police of the petitioner, there is nothing on record to connect the petitioner herein with the alleged offence.

12. Initially, the FIR was registered against all the persons, who have been named by the complainant, however, the final report under Section 173 Cr.P.C. was only presented against the husband of the deceased Harwinder Singh, her father-in-law Gurmukh Singh and the petitioner herein Ravinder Singh @ Sonu and the other persons named in the FIR i.e. Sewa Singh, Kanchan @ Harjit Kaur, Manjit Kaur @ Babli and Bhupinder Singh were found to be innocent by the Investigating Agency.

13. In ***Amit Kapoor vs. Ramesh Chander and another, 2012(4) RCR (Criminal) 377***, the Apex Court while discussing the scope and distinction of provisions of Section 227 (Discharge) and 228 (Framing of charge) of Cr.P.C. has held as under (para 10 and 11);

“Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the ‘record of the case’ and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming

that the accused has committed an offence, it shall frame the charge.”

“There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is expression of a definite opinion and judgment of the Court while Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.”

“11. At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.”

14. Further, the Apex Court in the said case, while discussing the scope of jurisdiction under Sections 397 and 482 Cr.P.C., has observed as under (para 19):-

“19. Having discussed the scope of jurisdiction under these two provisions, i.e., Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section

397 or Section 482 of the Code or together, as the case may be;

19.1) Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

19.2) The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently 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....

19.9) Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice...

19.13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an

opinion formed prima facie. ”

15. In a recent case in ***State of Rajasthan vs. Fatehkaran Mehdu, 2017(2) RCR (Criminal) 1***, the Apex Court while dealing with the question of quashing of charge, has reiterated the principles as laid down in the case of ***Amit Kapoor vs. Ramesh Chander and another (supra)***.

16. In the instant case, in the whole FIR, except the husband of the deceased and father-in-law, without mentioning about any specific date, month, year or about any specific incident, only general allegations have been levelled against the other relatives of the deceased. In other words, all the other relatives of the deceased have been roped in by the complainant, who are married sisters-in-law and their husbands, residing separately from the deceased, apart from unmarried brother-in-law, however, they were exonerated by the police during the course of investigation conducted by Inspector/SHO Lalit Singh and DSP Rajesh Kumar. As per the reply filed by the respondent-State only on the basis of disclosure statement of the petitioner, which was recorded by the police on 15.06.2017, final report under Section 173 Cr.P.C. has been presented against the petitioner herein as well. The petitioner herein is residing separately with his wife and family about 100 Kms. away from the house of the deceased.

17. At the stage of framing of charges, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. In the case in hand, the allegations are so patently absurd, inherently improbable and the basic ingredients of the

alleged offences are not satisfied. Further, if the allegations as set out in the FIR are taken as a whole, in the opinion of the court, they will not constitute the alleged offences qua the petitioner. This court is aware of the fact the power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

18. In view of the foregoing discussion and ratios of law, this court is of the considered view that it is a fit case, in which the charge-sheet framed against the petitioner herein should be quashed, because continuation of the same, would be an abuse of process of law, leading to injustice to the petitioner.

19. Keeping in view the peculiar facts and circumstances of the present case, the criminal revision in hand is hereby allowed and the impugned order dated 09.09.2017 passed by the trial court is hereby set aside qua the petitioner herein.

March 14, 2018

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No