

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

CRM-M-4934 of 2019.

Decided on:- February 01, 2019.

Jaspreet Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 482 Cr.P.C. for quashing of FIR No.68 dated 29.05.2018 under Section 306 IPC registered at Police Station Sadar Mansa, District Mansa (Annexure P-1) along with all subsequent proceedings arising therefrom including the order dated 09.01.2019 (Annexure P-2) passed by learned Sessions Judge, Mansa and charge-sheet dated 09.01.2019 (Annexure P-3), whereby charge under Section 306 IPC has been framed against the petitioner.

The aforesaid FIR was registered against the petitioner on the basis of statement of complainant Ranjit Singh. As per the FIR, the petitioner was married with Harshdeep Kaur sister of the complainant about 14-15 years back. From this marriage, one daughter Raitinder Kaur was born, who is

about 13 years of age and is studying at Patiala in 9th class. The petitioner has illicit relations with another lady of the village. However, when his wife Harshdeep Kaur (since deceased) tried to stop him from doing so, for this reason, there used to be quarrel between them. The efforts were made through Panchayat to make the petitioner understand, but it did not yield any result, rather, the petitioner made false allegations against Harshdeep Kaur. It is on account of her harassment at the hands of the petitioner, she committed suicide by consuming poison.

The charge under Section 306 IPC has been framed against the petitioner-accused vide order dated 09.01.2019 passed by learned Sessions Judge, Mansa.

Learned counsel for the petitioner has argued that the allegation levelled against the petitioner was that the deceased was thrown out of her matrimonial home by the petitioner and his family members. After 2½ months, when the petitioner and his family members were not ready to take her back in the matrimonial home, she committed suicide by consuming poison in her parental home. Thus, there was no allegation of harassment immediately before her death.

He has further argued that in order to attract the offence under Section 306 IPC, there must be abetment as defined under Section 107 IPC. As per the provisions of Section 113-A of the Indian Evidence Act, 1872, when the question is whether the commission of suicide by a woman has been abetted by her husband or any relative of her husband and it is shown that she

has committed suicide within a period of 7 years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume having regard to all other circumstances of the case that such suicide has been abetted by her husband or by such relative of her husband. However, in the present case, marriage between the petitioner and deceased was solemnised 14-15 years back and as such, no such presumption under Section 113-A of the Indian Evidence Act, 1872 can be drawn.

He has further contended that for the offence of abetment, the only allegation levelled against the petitioner is that the petitioner had illicit relations with a woman in the village and due to this reason, the deceased had tried to stop the petitioner from doing so and as such, there used to be a quarrel between them. However, there is no material to suggest that the petitioner ever abetted the deceased to commit suicide. The deceased was a lady of sensitive temperament and even in the year 2006 also, she made attempt to commit suicide for which village Panchayat was convened where she promised not to repeat such type of act in future. Even in the month of December, 2017, the deceased had tried to mix poison in the milk of the petitioner and his other family members with an intention to kill them, but she was caught red handed while mixing the poison.

It is further argued that in fact the complainant has concocted a story and it is difficult to believe that in the presence of parents of the deceased, she committed suicide. When in the presence of her parents, the deceased had stated that she wanted to commit suicide as the petitioner did

not take her back to her matrimonial home, but still her family members did not make any effort or some other act so as to stop her from committing suicide, rather, she was allowed to commit suicide in a peaceful manner.

I have heard learned counsel for the petitioner.

There is no dispute that after registration of the FIR, Challan has been presented in the Court and charge under Section 306 IPC has been framed against the petitioner-accused.

The plea of learned counsel for the petitioner that the deceased had committed suicide in her parental home and there was no allegation of harassment immediately before her death, cannot be accepted at this stage as the trial in the case has already been commenced and it can only be established during trial by way of producing evidence on record. Similarly, the contentions raised by learned counsel for the petitioner regarding the manner in which the deceased had committed suicide and her conduct before her death can also be looked into during the course of trial.

So far as the argument of learned counsel for the petitioner that the marriage was solemnized between the petitioner and the deceased about 14-15 years back and as such, the presumption under Section 113-A of the Indian Evidence Act, 1872 is not made out is concerned, the same is also liable to be rejected as the said presumption does not relate to the offence under Section 306 IPC, rather, it relates to the offence under Section 304-B IPC, which is not the case of the petitioner.

Therefore, this Court finds that no ground is made out for quashing the FIR in question and accordingly, the present petition, being devoid of any merit, is dismissed.

However, the observations made hereinabove shall not be taken as an expression of opinion on the merits of the case and are limited for present petition only.

February 01, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No