

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

CRM-M-24495-2020 (O&M)
Date of decision : 09.09.2020

Shivam Nanda

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikram Chaudhri, Sr. Advocate,
with Mr. S.S. Gill and Mr. Rahil Mahajan, Advocates,
for the petitioner.

Mr. Mehardeep Singh, Addl.A.G., Punjab.

Mr. Veneet Sharma, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J.

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

This petition under Section 482 of the Code of Criminal Procedure has been filed, *inter alia*, for quashing of FIR No.73 dated 10.06.2020, registered under Section 306 of the Indian Penal Code at P.S. Majitha Road, District Police Commissionerate, Amritsar; or in the alternative, to entrust the investigation of the case to the Central Bureau of Investigation.

Contents that the petitioner and the deceased had developed a friendly relationship and they never breached the boundaries drawn by their families. A few days before the death, the deceased had apprised him that

her father had been very harsh and had taken away her phone since the last few days as he doubted her of having misappropriated some money. Even as per the prosecution story, the deceased had consumed some poisonous substance in the morning of 03.06.2020 and she breathed her last on 10.06.2020. However, the matter regarding consumption of poisonous substance was not reported to the police and the FIR came to be lodged only on 10.06.2020, after her death. The authenticity and veracity of the suicide note is also highly doubtful which was statedly recovered from the room of the deceased on 02.06.2020, whereas, the deceased had consumed some poisonous substance on 03.06.2020. Further, a careful perusal of the suicide note also depicts that the deceased was being harassed by her father and on that account, she had consumed poisonous substance and she has stated in clear words that the petitioner would not be responsible for her death. Otherwise also, going by the allegations, refusal to get married cannot be termed as an abetment to suicide, therefore, no case under Section 306 IPC is made out against the petitioner. Cites ***Kewal Krishnakant Vishwakarma Vs. State of Chhattisgarh, (Chhattisgarh), Law Finder Doc Id # 1391389; Mahendra Singh Vs. State of M.P., 1996 CriLJ 894; S.S. Chheena Vs. Vijay Kumar Mahajan, (2010) 12 SCC 190; State of West Bengal Vs. Indrajit Kundu, (2019) 10 SCC 188; and Satnam Singh and others Vs. State of Punjab and another, CRM-M-38469-2015*** decided on 03.05.2017.

On the other hand, learned counsel for the respondents submit that the suicide note, the Whatsapp chats and photographs which have been collected during the investigation clearly indict the petitioner. Learned counsel for the complainant also refers to transcript of messages exchanged

by the petitioner and the deceased which have been placed on record as Annexure P-6 (colly.) wherein, the petitioner has used highly intemperate language which portrays the deceased as a prostitute. The intention of the petitioner, from the very beginning was not to perform marriage but to use the deceased. He had harassed the deceased to such an extent leaving no option for her but to commit suicide. In the suicide note, the deceased has held the petitioner solely responsible for her death.

Heard.

Hon'ble the Supreme Court has laid various guidelines on the subject in case reported as ***State of Haryana and others Vs. Ch. Bhajan Lal and others, 1991(1) RCR (Crl.) 383***, which are reproduced as under:-

- (a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*
- (b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;*
- (c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose 265 the commission of any offence and make out a case against the accused;*
- (d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;*

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

A perusal of the above guidelines would show that in cases, where disputed question of fact is involved and requires evidence to prove the same, provisions of Section 482 Cr.P.C. ought not be invoked. In the case in hand, the allegations in the complaint constitute a cognizable offence justifying registration of case and investigation thereon and does not fall under any of the categories enumerated above. Similar view has been taken by this Court, in ***M/s Hybrid Seeds and Pesticides, Abohar Vs. State of Punjab (P&H), 1997(3) R.C.R. (Criminal) 768.***

The petitioner has approached this Court by way of the instant petition seeking quashing of the FIR by raising various contentions, which primarily relate to the factual aspect of the matter which shall be gone into by the competent Court during the course of trial. The investigation is still

jurisdiction, particularly, in view of the accusations and the incriminating material which has come forth against the petitioner so far. The case law cited by learned counsel for the petitioner is distinguishable on facts of the present case.

The Court feels that no cause of action has arisen in favour of the petitioners to invoke the inherent jurisdiction of this Court by way of filing the instant petition. Consequently, the instant petition is dismissed.

09.09.2020
jyoti-II/atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No