

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

(123)

CRM-M-42778-2021

Date of Decision : October 11, 2021

Shashi Bala and another

.. Petitioners

Versus

State of Punjab and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikram Bali, Advocate, for the petitioners.

Mr. Ramdeep Partap Singh, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 482 Cr.P.C for quashing of FIR No.0062 dated 27.03.2021 registered under Sections 306 and 34 of the Indian Penal Code, 1860 at Police Station Khanna City-II, District Khanna.

Learned counsel for the petitioners submits that in the present case, the FIR has wrongly been registered against the petitioners and the allegations, which have been alleged against the petitioners, does not satisfy the ingredients required to prove the allegation under Section 306 IPC. Learned counsel for the petitioners further submits that though in the present case, there was a money dispute between the petitioners and the deceased for which, deceased had filed a civil suit but the said dispute cannot be treated as a factor which led the deceased to take his own life as the civil suit was decreed in favour of the deceased on 14.12.2016, hence,

the petitioners have wrongly been involved in the present case. Learned counsel for the petitioners places reliance upon the judgment in **Criminal Appeal No.611 of 2011 titled as M. Mohan versus State Transport Deputy Superintendent of Police, decided on 01.03.2011** to contend that in order to convict a person under Section 306 IPC, there has to be a clear mens rea to commit the offence and also requires an active or direct act which would lead the deceased to commit suicide seeing no other option and the act must have been intended to push the deceased into a position that he/she commits suicide, which intent, according to the petitioners, is missing in the present petition.

I have heard learned counsel for the petitioners and have gone through the record with his able assistance.

In the present case, the prayer of the petitioners is that though, the investigation into the allegations is yet being undertaken by the police, this Court should evaluate the allegations alleged against the petitioner in the FIR so as to record a finding that the petitioners are innocent and are being unnecessarily investigated. The said prayer of the petitioners cannot be accepted especially in view of the fact that the allegations alleged in the FIR are being investigated by the police and the petitioners have full opportunity to explain their position to the investigating agency so as to prove the allegations incorrect.

As per the settled principle of law, as noticed by the Hon'ble Supreme Court of India in **Civil Appeal No.5412 of 1990 titled as State of Haryana and others versus Ch. Bhajan Lal and others, decided on 21.11.1990**, the Court should not embark upon an enquiry which is being conducted by the Investigating Agency so as to ascertain the reliability and

the genuineness or otherwise of the allegations alleged in the FIR. That being so, this is not an extraordinary case wherein, on the face of it, the allegations as recorded in the FIR do not constitute any cognizable offence or this Court should examine those allegations on merits and record a finding dehors the investigation being undertaken by the Investigating Agency into those allegations.

Learned counsel for the petitioners submits that mere allegations that the money stated to have been given to the petitioners by the deceased created financial difficulties for him, which led the deceased to take his own life, cannot be a ground so as to charge the petitioners for abetment of suicide. The said argument is to be seen in light of various factors such as the suicide note recovered from the deceased which blamed the petitioners as well as the factual averment that non-payment of amount by the petitioners despite decree in favour of the deceased created financial distress before the deceased which led him to take his own life. These factors, are to be substantiated during the investigation and thereafter proved, during the trial on the basis of the evidence, which will come on record. At the threshold, the allegations, which are serious in nature and are being based upon the factual assertion including the fact which is not being denied by the petitioners that despite having a decree in his favour for the recovering of an amount of Rs.9,50,000/-, the deceased was still struggling for execution of the same, cannot be brushed aside as mere assumption of the petitioners.

Once, the petitioners have been named in the suicide note as a cause for the deceased to take his own life, the onus shifts upon the petitioners and the said onus is to be discharged on the basis of evidence,

which will come on record during the investigation and trial and hence, at this stage, when the investigation is still in progress, no ground is made out to quash the FIR by this Court and that too by evaluating the factual assertion of the petitioners to their benefit.

Dismissed.

October 11, 2021

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No