

In the High Court for the States of Punjab and Haryana at Chandigarh

CRR-1576-2021 (O&M)

Date of Decision: November 30, 2021

Kapil

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Yogeshwar Dayal Kaushik, Advocate,
for the petitioner.

Vivek Puri, J.

Present criminal revision has been filed by the petitioner assailing the impugned order dated 06.09.2021 passed by the learned Additional Sessions Judge, Faridabad vide which charge has been framed under Section 306 of the Indian Penal Code (for short "IPC") against the petitioner.

Briefly, the FIR bearing No. 42, dated 28.01.2021, under Section 306 IPC was registered at Police Station Old Faridabad on the basis of the statement of Umesh alleging that his sister, aged about 17 years, had committed suicide by hanging from a fan. The deceased had been accompanying the petitioner on a motor cycle and was seen by the uncle of the petitioner. On his asking, the deceased alighted from the motor cycle and informed the uncle that the accompanying boy was residing in their neighbourhood. The deceased was dropped in the house

by the uncle. The complainant came to know that the petitioner had been harassing the deceased and even his parents had gone to the house of the accused-petitioner to persuade him, but to no effect and on account thereof, the deceased had committed the suicide by hanging from a fan.

On completion of the investigation, the report under Section 173 Cr.P.C. has been presented in the Court with regard to commission of offence under Section 306 IPC.

In terms of the impugned order, the learned trial Court has observed that a prima facie case under Section 306 IPC is made out against the petitioner and accordingly, charge has been ordered to be framed.

Aggrieved by the said order, the present revision has been preferred.

I have heard learned counsel for the petitioner and perused the record.

It has been contended by the learned counsel for the petitioner that the charge has been framed without any sufficient material, the allegations are contradictory, the deceased had fallen in love with the petitioner, it is a case of honor killing, there is nothing to suggest that the deceased ever blackmailed, stalked, there is no suicide note, the telephonic calls were made from the side of the deceased and even while granting bail, it has been observed by the learned Additional Sessions Judge that the investigating officer has not been able to show any material that the suicide by the deceased was direct result of any incitement or instigation by the petitioner.

It is significant to note that the observation recorded in the bail order cannot be termed to be conclusive enough to hold that there was no material indicating that suicide by the deceased was the direct result of any incitement or instigation by the petitioner. The parameters for granting bail and framing of charge are distinct and separate.

The charge is not required to be framed in the cases where the available material does not disclose the ingredients of the offence. However, the Court has to consider the broad probabilities of the case, the total effect of the proposed evidence and documents produced to find out if a prima facie case is made out against the accused or not. The test to determine a prima facie case will depend upon the facts of each case and there cannot be any rule of universal application. Even a strong suspicion founded on material can be termed to be sufficient to form a presumptive opinion with regard to the existence of factual ingredients constituting the offence. The trial Court has to be satisfied that there is sufficient ground for proceeding and not that there is sufficient ground for conviction. The benefit of doubt can be termed to be a relevant factor at the conclusion of trial, but not at the stage of framing of charge. At the stage of framing of charge, the Court is not expected to go deep into probative value of the material on record.

Merely because no suicide note has been recorded by the deceased, cannot be termed to be a circumstance to conclude that there is no sufficient material against the petitioner to frame the charge. It is pertinent to note that the learned trial Court has specifically and categorically observed that there are specific allegations leveled by the

complainant and even Call Detail Record (CDR) has also been collected showing that the accused was in constant touch with the deceased. The perusal of the statement of the complainant is indicative of the fact that the deceased was in touch with the petitioner, who had been harassing her and even the parents of the deceased had gone to the house of the petitioner to persuade him, but to no effect and on that account, the deceased had committed suicide.

The petitioner is seeking to put-forth version to the effect that the deceased was in relationship with him and it is a case of honor killing. In this regard, it may be mentioned here that the defence version of the petitioner is not to be adjudicated and evaluated at the stage of the framing of charge and the same may be looked into at the appropriate stage of the trial.

Admittedly, the deceased was having frequent telephonic conversations with the petitioner and it is insignificant at this stage that the calls originated from the side of the deceased as alleged by the petitioner.

The material on record emerging in the statement of the complainant indicating harassment by the petitioner to the deceased which prompted her to commit suicide and the call detail record have to be termed to be sufficient to arrive at a prima facie conclusion with regard to the commission of offence under Section 306 IPC.

In these circumstances, no illegality or irregularity is made out in the impugned order passed by the learned trial Court vide which the

charge has been framed under Section 306 of the Indian Penal Code against the petitioner, which may warrant any interference by this Court.

Dismissed.

November 30, 2021
vkd

(Vivek Puri)
Judge

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No