

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRR-4929-2016 **Date of Decision: 15.11.2022**
Judgement reserved on: 21.10.2022

Simple --Petitioner

Versus

State of Haryana **--Respondent**

2. CRR-85-2017

Monika **--Petitioner**

Versus

State of Haryana **--Respondent**

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. B.S. Rana, Sr. Advocate with
Mr. S.S. Gangola, Advocate for the petitioner in
CRR-4929-2016.

Mr. Namit Sharma, Advocate for petitioner
in CRR-85-2017.

Mr. Kirpal Singh, A.A.G., Haryana.

Mr. Ashit Malik, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

This common order will dispose of the aforementioned two revision petitions impugning the order dated 17.11.2016, whereby the applications filed by the petitioners praying for their discharge under section 227 Cr.P.C, have been dismissed and the charges have been framed against the petitioners for the offence under sections 306, 34 IPC and section 3 (1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) (hereinafter to be referred as the Atrocities Act).

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As per factual matrix, the FIR in question was lodged by the father of the deceased namely Chandi Ram. It was alleged that his daughter Manju Bala i.e. deceased was married in the year 2004 with Hari Kishan son of Bhim Sen. She was blessed with two children i.e. son Aryan aged 11 years and daughter Arrika aged about 2 years. The deceased was working as a Teacher at Govt. Primary School, Kabri, district Panipat. It was further alleged that the school staff incharge Mukesh, Dharambir, Tara Sir used to harass the deceased. Madam Suman, Anju, Simple and mother of one student namely Rajender, whose name he did not know, in connivance with each other harassed and humiliated her since long time. The deceased told regarding harassment and humiliation being caused to her to the complainant father and to her husband. Due to the harassment caused by the above named persons and by Madam Simple humiliating her by uttering casteist words "Chamari" before the school staff his daughter, Manju Bala committed suicide on 19.5.2016 at 4.30 PM by jumping before the train along with her daughter aged about 2 years, however, her daughter survived by receiving minor injuries, whereas his daughter Manju Bala died. A request was made to take legal action against the culprits.

The FIR was registered and investigation commenced. Proceedings under section 174 Cr.P.C were carried out. On the next day i.e. on 20.5.2016 a suicide note left by the deceased was produced by the complainant before the investigating agency. The investigating agency carried out a thorough investigation and presented the charge sheet under section 173 Cr.P.C on 22.9.2016 against two persons namely Simple and Monika. Thereafter, supplementary challan under section 173(8) Cr.P.C

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was presented against the third accused Anju. However, rest of the persons named in the FIR were found to be innocent. After filing of the charge sheet the petitioners filed applications under section 227 Cr.P.C praying for their discharge. Learned Addl. Sessions Judge, Panipat heard both the parties at length and dismissed the applications filed under sections 227 Cr.P.C vide his order dated 17.11.2016. Aggrieved by the same petitioners have approached this court by way of filing the present revision petitions.

Learned senior counsel Mr. B.R. Rana appearing for the petitioner Simple assisted by Mr. S.S. Gangola and Mr. Namit Sharma, Advocate for petitioner in second petition have vehemently contended that the petitioners have been falsely implicated in this case. He submits that deceased and petitioner Simple were working as Teachers in the same school, whereas petitioner Monika is the mother of one student Rajender studying in the same the school. It is submitted that the dispute arose on account of collection of the money from the students which was subsequently returned. It has been contended that petitioners have no role whatsoever in harassing or humiliating the deceased. He submits that the allegations against the petitioners and that of the rest of the accused were the same, however, for the reasons best known to the investigating agency, it declared the other persons named in the FIR innocent, whereas on the same set of allegations petitioners have been illegally roped in by the investigating agency. Counsel submits that the suicide note of the deceased was produced by the complainant himself on the next day of occurrence and the same could not be relied upon. It is contended that even from the bare perusal of the contents of the suicide note no offence under section 306 IPC

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is made out. He submits that for the commission of offence under section 306 IPC the instigation under section 107 IPC is to be proved, however, there was no prima facie material produced by the prosecution for fulfilling the requisite conditions prescribed under the statutory provision of Section 107 IPC. It is submitted that for the offence under the Atrocities Act the requisite ingredients are also not fulfilled. Mr. Namit Sharma, Advocate has submitted that there is only one simple allegation against the petitioner Monika alleged by the deceased in the alleged suicide note which neither constitute any offence under section 306 IPC nor under the Atrocities Act. It is submitted that the prosecution is bound to prove a prima facie case against the accused on the basis of the material produced before the Trial Court, however, the prosecution miserably failed to adduce any such material constituting a prima facie case against the petitioners and thus the Trial Court has failed to appreciate the same and has illegally dismissed the applications filed under section 227 Cr.P.C and hence has fallen in error in framing the charge against the petitioners for the offence under sections 306, 34 IPC and section 3 of the Atrocities Act. Learned counsel for the petitioners have relied upon the judicial precedents in cases of *S.S. Chheena Vs. Vijay Kumar Mahajan & another, 2010(4) R.C.R (Criminal) 66*, *Bhagwan Das Vs. Kartar Singh, 2007(3) R.C.R (Criminal) 87*, *Gayatribai Vs. State of M.P., 1996 CrLJ 894*, *Netal Dutta Vs. State of West Bengal 2005 AIR (SC) 1775*, *Madan Mohan Singh Vs. State of Gujarat & Anr. 2010(4) RCR (Crl.) 207* and *Gurcharan Singh Vs. State of Punjab 2017(1) RCR (Crl.) 118 etc.*

Learned counsel for the complainant has vehemently opposed

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the submissions made by counsel for the petitioners. He has submitted that admittedly the deceased belonged to the Scheduled Caste. She was working as a Teacher in the same school along with the accused persons. It is submitted that the deceased was made a scapegoat by rest of the staff members. It is further submitted that deceased was persistently being humiliated by uttering the casteist remarks before the school staff. Counsel has submitted that the case of the prosecution is not based on presumptions and assumptions. Rather the deceased had left a suicide note, wherein she specifically mentioned about the complicity of the petitioners in her harassment and humiliation in front of the school staff which compelled her to end her life. Counsel has submitted that a bare reading of the allegations in the suicide note is sufficient enough to constitute a prima facie case against the petitioners. It is further submitted that the deceased jumped before the train along with her child, however, the child miraculously survived with two injuries, whereas Manju Bala died on the spot. Counsel has submitted that the judicial precedents relied upon by learned counsel for the petitioners are not applicable in the facts and circumstances of the present case as at the the stage of framing of charge the court is to see whether the material produced before it constitute a prima facie case against the petitioners and the court is not to weigh the evidences at this stage. He has submitted that the material produced by the investigating agency before the learned Trial Court is sufficient enough to constitute a prima facie case against the petitioners and hence the learned Trial Court has rightly dismissed the applications filed by them under section 227 Cr.P.C and framed the charges.

On the other hand, learned State counsel has also opposed the submissions made by counsel for the petitioners. He has submitted that the investigating agency has thoroughly investigated the case by entrusting the same to a competent Investigating Officer. He has drawn the attention of this court to the status report filed by the State. He has submitted that though there were number of persons named in the FIR and the investigating agency investigated the role of all the persons mentioned in the FIR including the C.D produced by the complainant and the suicide note . On the basis of a thorough examination the charge sheet was presented under section 173 Cr.P.C against petitioner Monika and Simple and thereafter supplementary challan under section 173(8) Cr.P.C was produced against the third accused Anju. He has submitted that the material collected by the investigating agency was sufficient enough for constituting a prima facie case against the petitioners. He has further submitted that the investigating agency carried out the proceedings under section 174 Cr.P.C and the postmortem of the dead body was conducted. Thereafter, statement of witnesses were recorded under section 161 Cr.P.C and the suicide note produced by the complainant was also examined. State counsel has submitted that the investigating agency has rightly submitted the challan wherein the accused were found to have committed the offence under section 306, 34 IPC and section 3 of the Atrocities Act. He has submitted that the judgements relied upon by the counsel for petitioners are distinguishable in the facts and circumstances of the present case. It is further submitted that the learned Trial Court has not committed any error in dismissing the applications filed by the petitioners as the prosecution has

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succeeded in proving a prima facie case against the petitioners and the learned Trial Court was totally justified in framing the charges against the petitioners for the offence under sections 306, 34 IPC and Section 3 of the Atrocities Act. He submits that the revision petitions filed by the petitioners deserve to be dismissed.

The relevant statutory provisions of Sections 306 IPC, 107 IPC and 227 Cr.P.C are reproduced as under:-

“306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

“107. Abetment of a thing.—A person abets the doing of a thing, who—

(First) — Instigates any person to do that thing; or

(Secondly) —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly) — Intentionally aids, by any act or illegal omission, the doing of that thing. Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing. Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby

facilitate the commission thereof, is said to aid the doing of that act.”

227-Discharge. If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

I have heard both the sides at length and have gone through the records carefully.

Admittedly, the deceased was a Teacher and working with the accused persons in the same school. There is a consistent version of the allegations that the deceased was made a scapegoat by the accused persons. There are allegations that the petitioner Simple in connivance with co-accused harassed the deceased and uttered the casteist remarks against her. There are allegations against the petitioner Monika also regarding harassment caused to the deceased in connivance with other accused. The complainant has alleged that one of the accused, who is mother of a student namely Rajender, whose name he did not know has also harassed the deceased in connivance with the co-accused. On the next day of the occurrence complainant produced a suicide note left by the deceased. The complicity of the petitioners is also found mentioned in the suicide note. The investigating agency had collected the oral and documentary evidence against the accused persons. On completion of investigation challan under section 173 Cr.P.C was filed against two accused and supplementary challan was filed against accused Anju. There is no dispute with the judicial precedents relied upon by the counsel for petitioners, however,

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every case rests on its own facts and circumstances. The case in hand pertains to the deceased who belonged to the Scheduled Caste community and was the colleague of the accused. She was allegedly being humiliated and harassed unabatedly by the accused persons and hence she jumped before the train along with her 2 year old daughter. This court cannot turn a blind eye to the ignominy and humiliations faced by the deceased which ultimately have compelled her to jump before the train along with her child, though, the child survived miraculously. The trial of the case is at the threshold. Learned Trial Court, at this stage, could not have weighed the evidence produced threadbare and was to see whether the material produced is sufficient enough to constitute a prima facie case against the petitioners. Whether the offence under section 306 IPC read with section 107 IPC is committed by the petitioners or not can be established only after a thorough trial on the basis of the appreciation of evidence produced by both the sides. However, in the opinion of this court the learned Trial Court has rightly appreciated the evidence and circumstances of the case in the light of the law settled and held that a prima facie case is made out against the petitioners and they be tried for the offence under sections 306, 34 IPC and section 3 of the Atrocities Act.

This Court is supported by the decision of Hon'ble Supreme Court in *Sajjan Kumar v. CBI (2010) 9 SCC 368*, wherein while discussing the scope of Sections 227 and 228 Cr.P.C., the following principles were laid down: -

“(i) The Judge while considering the question of framing the charges under Section 227 Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out

whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial

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Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

Resultantly, this court does not find any infirmity in the view taken by learned Trial Court in dismissing the applications filed by the petitioners and ordering the framing of charge against them. Accordingly, both these revision petitions are dismissed being devoid of any merit.

This court is conscious of the fact that this case is pending since long, hence, the trial of the case be commenced and the same be concluded expeditiously in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

15.11.2022

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