

CRM-M-38402 of 2021

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

**CRM-M-38402 of 2021
Date of decision:23.02.2022**

Jobandeep Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Balbir Kumar Saini, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Saransh Sabharwal, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J.

Vide the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”), the petitioner seeks quashing of FIR No.254 dated 12.07.2021 registered for offence under Section 306 of Indian Penal Code, 1860 at Police Station Islamabad, District Amritsar by compounding the offence alongwith all subsequent proceedings on the basis of panchayati compromise dated 06.09.2021 (Annexure P-2).

FIR (Annexure P-1) has been registered on the statement of Amandeep Kaur, on the allegation that they are seven sisters and she is the eldest. While her mother is deaf and dumb, grandmother is blind and father works as a labourer. One of her younger sisters, Nitti, who is unmarried, stays with her parents at Indira Colony, Amritsar. Her sister confided in her that she is in relationship with Jobandeep Singh (present petitioner),

resident of the same locality for the last 03 years and he had promised to marry her, but about 1½ years back, he got married to another girl without telling her. Nitti further told her that Jobandeep Singh has promised that he will divorce his wife and then marry her. She was further told by Nitti that in case he does not do so, she will commit suicide. On 11.07.2021, the complainant got a call from Indira Colony that Nitti has committed suicide by hanging. The complainant has alleged that Jobandeep Singh has brought disrepute to her sister on the pretext of false promise of marriage and has played with her emotions. On checking the mobile of the deceased, the complainant found a recorded message of the deceased that “I am helpless. The reason for my death is Jobandeep Singh”. The complainant requested for taking action against the accused.

Counsel for the petitioner has contended that the matter has been settled and panchayati compromise (Annexure P-2) has been entered into with the intervention of respectables, which has been duly signed by the complainant, her father as well as the petitioner and other persons from the locality. He submits that the compromise is supported by an affidavit (Annexure P-3) of the complainant, which has been executed by her on the same day. On basis thereof, the petitioner has sought quashing of the FIR. He submits that pursuant to order passed by this Court, the parties have recorded their statements and a report has been received from the Trial Court in support of the compromise. Reliance has been placed by the counsel upon the following judgments:-

(i) **Sucha Singh and others Vs. State of Punjab and**

another 2011 (7) RCR (Criminal) 2546;

(ii) CRM-M-37957-2015 titled as 'Harmesh Singh and another Vs. State of Punjab and another', decided on 09.02.2017;

(iii) CRM-M-8747 of 2017 titled as 'Renu and another Vs. State of Punjab and another', decided on 12.05.2017;

(iv) CRM-M-12998 of 2016 titled as 'Sukhwinder Kaur and another Vs. State of Punjab and another', decided on 14.02.2019;

(v) CRM-M-20619 of 2019 titled as 'Harmesh Singh and others Vs. State of Punjab and another', decided on 29.07.2019;

(vi) CrI.M.C.723-2021 and CrI.M.A.3519-2021 titled as 'Mujeebuddin and another Vs. The State and another' decided on 16.04.2021;

vii) CrI.M.C.1732/2021 and CrI.M.A.12041-2021 titled as 'Gaurav Vij and another Vs. State of NCT of Delhi and others', decided on 07.09.2021;

viii) WPCR No.1075 of 2019, 'Sandeep Mishra Vs. State of Chattishgarh and others', decided on 03.02.2020;

ix) 'Ramesh Kumar Vs. State of Chattisgarh 2001(4) RCR (Criminal) 537;

- x) **Netai Dutta Vs. State of West Bengal 2005(2) SCC 659;**
- xi) **State of Kerala and others Vs. S.Unnikrishnan Nair and others 2015(4) RCR (Criminal) 241; and**
- xii) **State of Madhya Pradesh Vs. Laxmi Narayan and others 2019(2) RCR (Criminal) 255.**

On the other hand, the petition has been contested by the State-respondent No.1 by filing reply by way of an affidavit of Assistant Commissioner of Police (Licensing & Security), Amritsar City, wherein, it has been submitted that the offence is of a serious nature, the investigation is in process, statements of 11 witnesses have been recorded and the audio recording recovered from the mobile of the deceased, has been sent to the Computer Forensic Lab, State Cyber Crime, Punjab for its examination. It has been further submitted that the petitioner is involved in a heinous crime and has abetted the suicide of a 19 years old girl and the offence being non-compoundable, cannot be quashed. Still further, the State in its reply has denied the compromise of the petitioner with the complainant-respondent No.2.

Counsel for the complainant-respondent No.2, has, however, supported the arguments and has given his no objection to the acceptance of the petition.

I have considered the respective submissions advanced by counsel for the parties as well as examined the case law cited at bar.

The judgments of this Court referred by counsel for the petitioner in **Sucha Singh, Harmesh Singh, Renu, Sukhwinder Kaur, Harmesh Singh's (supra)**, are all cases where the deceased had committed suicide and had not left behind any suicide note. Perusal of these judgments shows that apparently the Investigating Agency did not possess any incriminating material and except for the allegation levelled by the complainant in the FIR, there was no material to proceed with the investigation. In particular, reference deserves to be made to the observations by a Co-ordinate Bench of this Court in Sucha Singh's case, which has been followed in most of the judgments and are reproduced as under:-

“3. Normally, this Court would not have entertained the quashing of an offence punishable under Section 306 IPC. However, the facts and circumstances of the present case are somewhat different.”

Still further, in Para 11, the Coordinate Bench has observed as under:-

“11. In the present case also, there is no such allegation that the petitioner herein had instigated, provoked, incited, or encouraged the daughter of the complainant to commit suicide. Thus, provisions contained Section 107 IPC are not attracted in the instant case. As such, no offence under Section 306 IPC is made out. Moreover, the parties in the present case have compromised.”

Following this judgment, the High Court of Delhi in Mujeebuddin's case (supra) come to the conclusion that as the offence was not made out and the parties had arrived at settlement, the FIR was quashed.

In **Gaurav Vij's case (supra)**, besides the compromise between the parties, the High Court of Delhi scrutinized the suicide note which was recovered after the death of Prachi Vij, wherein, allegations had been levelled against the petitioner. The High Court formed the view that from the perusal of the suicide note, it can be presumed that the allegations are vague and general in nature and clearly show that the accused did not instigate the deceased at any point of time with an intention that she should commit suicide. The Court was of the view that offence under Section 306 IPC, is not made out.

Supreme Court in **Netai Datta's case (supra)**, after analyzing the suicide note came to the conclusion that there is no averment that the accused had caused any harm to the deceased or was in any way responsible for delay of payment of salary, rather the Court found that the deceased was dissatisfied with the working conditions and as there were no other allegations by the complainant against the accused of harassment, upheld the judgment of the learned Single Judge quashing the FIR in exercise of extra powers under Section 482 of the Code. In **Ramesh Kumar's case (supra)**, the Supreme Court in an appeal against the judgment of conviction of the appellant under Sections 306 and 498-A IPC, after

examining the evidence led before the Trial Court, was of the opinion that there is no material or evidence available on the record from where it could be inferred that the accused appellant has abetted the commission of suicide by the deceased.

In **S.Unnikrishnan Nair's case (supra)**, though the accused was specifically named in the suicide note, the Hon'ble Supreme Court found that the note does not state about any continuous act of harassment and upheld the decision of the High Court quashing the FIR and proceedings subsequent thereto holding that no *prima facie* case is made out against the accused. Apex Court distinguished its earlier judgment in **Praveen Pradhan Vs. State of Uttaranchal and another 2012(4) RCR (Criminal) 724** wherein, it has been held as under:-

“In fact, from the above discussion it is apparent that instigation has to be gathered from the circumstances of a particular case. No straight-jacket formula can be laid down to find out as to whether in a particular case there has been instigation which force the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Therefore, in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed

suicide. More so, while dealing with an application for quashing of the proceedings, a court cannot form a firm opinion, rather a tentative view that would evoke the presumption referred to under [Section 228 Criminal Procedure Code](#).”

Consequently, no hard and fast rule can be laid down that in every case of suicide where a compromise has been entered into between the complainant and the accused, the proceedings can be quashed in exercise of the inherent powers. Attending circumstances besides the compromise are equally relevant. The allegation regarding instigation or abetment would be a matter of evidence before the Trial Court.

In the light of the above, when facts of the present case are examined, it is seen that there are specific allegations in the complaint by the sister of the deceased of instigation and provocation by the accused-petitioner, who was having an affair with the deceased for the last three years. It has been specifically alleged that the accused married some other girl and even after his marriage, kept on assuring the deceased that he will get married to her after divorcing his wife. This, as per the allegations, continued for a period of 1½ years before the deceased eventually took the extreme step and left behind a recording in her mobile implicating the accused. Further, the recording has been sent by the prosecuting agency for analysis to a laboratory and its report is awaited. The prosecution has collected incriminating material and has recorded statements of 11 witnesses. The FIR is at the stage of investigation, which is yet to be

concluded and the final report has not been submitted.

Supreme Court in State of **Laxmi Narayan's case (supra)** has held that heinous and serious offences cannot be quashed. In **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017 AIR (SC) 4843**, Supreme Court has laid down principles governing the exercise of inherent powers under Section 482 of the Code and has held as under:-

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal

Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim

have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a

mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

(emphasis supplied)

Suicide is a tragedy which has a long lasting effect on the family of the deceased as well as the society as a whole. It causes emotional, physical and economic impact with serious implications. Offences with allegations of indulging in acts which abet, provoke, entice, encourage or instigate the deceased to commit suicide, are offences of a very serious nature and cannot be quashed on the basis of a compromise entered into with survivors of the deceased. Such an offence is neither personal nor private in nature. Strength is also drawn from the judgment of a Division Bench of this Court in **CRM-M-40769 of 2014 titled as Baldev Singh Vs. State of Punjab, decided on 02.06.2016**, wherein, it has been observed as under:-

“The offence under [Section 304-A](#) IPC presents a situation where the victim has lost his life in an accident. The legal representatives of the deceased may enter into a compromise with the accused for considerations best known to them, but to say that an offence under [Section 304-A](#) is private

in nature is wholly incorrect. It is an offence which impacts society as a whole with its ripples casting their net far and wide, permeating to the very core.”

There is another aspect which has been noticed by a Coordinate Bench of this Court in **CRM-M-50644 of 2021, Raghuraj and another Vs. State of Punjab and another, decided on 03.12.2021**, while dealing with a somewhat similar situation. Rejecting the compromise effected between the accused and the father of the deceased, who was the complainant, it has been held that it cannot be over-emphasized that a compromise has to be effected only with a victim.

Keeping in view the above facts and circumstances, the instant petition seeking quashing of the FIR and subsequent proceedings simply on the basis of compromise between the complainant and the family members of the deceased, cannot be entertained.

Petition is dismissed.

As a matter of abundant caution, it is clarified that anything said hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)

JUDGE

February 23, 2022

savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes