

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

CRM-M-45095-2021

Date of decision : 16.09.2022

Nishant

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing of FIR No.0064 dated 29.02.2020, under Sections 306, 354 of Indian Penal Code, registered at Police Station City Jhajjar, District Jhajjar along with consequential proceedings arising therefrom on the basis of compromise dated 05.10.2021 (Annexure P-2).

It has been contended by counsel for the petitioner that the petitioner was falsely implicated in this case. He has submitted that complainant-Anita lodged the FIR wherein it was alleged that she married her daughter Pooja with Ravi. After few days of marriage, Ravi and his family members started harassing her daughter for demand of dowry. She was thrown out of the house. The brother-in-law of Pooja namely, Nishant i.e. the petitioner, came to their house with some boys and abused them. When her daughter was coming from Dargah on 28.02.2020, Nishant caught hold her hand and abused her. She came home and went to the room thereafter, she was found hanging. She was being pressurized

to withdraw the FIR by Ravi, her father-in-law Rakesh, Ravi's maternal aunt and on their instigation, Nishant harassed her. On the basis of these allegations, the FIR was lodged to take legal action against the accused. Learned counsel for the petitioner has further submitted that after registration of the case, both the parties had arrived at an amicable settlement and thus, resolved the dispute amicably. He has submitted that as both the sides have resolved their differences, the prosecution of the petitioner would be nothing but an abuse of the process of the Court.

Learned counsel for the complainant has affirmed the submissions made by counsel for the petitioner.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that there are specific allegations of instigation by the petitioner against the deceased. He has submitted that the petitioner by his ill-intention has compelled the daughter of the complainant to take extreme step by ending her life. He submits that after investigation, challan has been presented *qua* the petitioner. He has submitted that the present petition has been filed for quashing of the FIR on the basis of the compromise arrived at between the parties. He has submitted that the offence under Section 306 IPC is a heinous offence which cannot be compounded and hence, the petition deserves to be dismissed.

I have heard counsel for the parties and perused the record.

The FIR was lodged by the complainant on the basis of the allegations against the petitioner and other accused. After investigation, the investigating agencies have filed the challan i.e. report under Section 173(2) Cr.P.C. and the case is pending trial before the trial Court.

The Hon'ble the Supreme Court in Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others, 2021 SCC OnLine SC 315 has held that the High Court should exercise the power under Section 482 Cr.P.C. with great circumspection and sparingly.

The Hon'ble Supreme Court in State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335 has held as under:-

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

- 1. 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.*
- 2. Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.*

3. *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
4. *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.*
5. *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.*
6. *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.*
7. *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.*

Evidently, the offence alleged against the petitioner is under Section 306 IPC. Hon'ble Supreme Court in **Daxaben Versus State of Gujarat, 2022 SCC online SC 936** observed that the FIR under Section 306 of IPC (abetment of suicide) cannot be quashed under Section 482 Cr.P.C. On the basis of settlement as Section 306 IPC falls in the category of heinous and serious offence which are considered as crime against society.

Weighing the facts and circumstances of the present case on the anvil of the law settled, it is apparent that the offence under Section 306 IPC falls in the category of heinous offence and in view of the law settled, the alleged compromise arrived at between the parties has no legal sanctity and thus, petition filed being devoid of any merits is hereby dismissed. However, the parties are at liberty to pursue their remedies as available to them in accordance with law. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

16.09.2022
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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