

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1500-2020
Date of Decision:-**24.05.2023**

RUBEKA AND OTHERS

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Manbir Singh Basra, Advocate
for the petitioners.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

Mr. Anupinder Singh Brar, Advocate
for respondent No.2.

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KARAMJIT SINGH, J. (Oral)

1. Present petition is for quashing of FIR No.134 dated 29.8.2019 registered under Sections 306/34 IPC at Police Station City Batala District Gurdaspur on the basis of compromise dated 4.12.2019 (Annexure P-2) along with other consequential proceedings arising thereto.
2. The abovesaid FIR was registered on the statement of complainant/respondent No.2-Rulia Masih against the petitioners.

3. On notice of motion, respondent No.2 appeared in the Court through his counsel and pleaded that he has no objection if the FIR in this case is quashed on the basis of the aforesaid compromise which has been effected between the parties.
4. During the course of preliminary hearing, the trial Court/Illaq Magistrate was directed to record the statements of the all the concerned parties with regard to genuineness and validity or otherwise of the aforesaid compromise.
5. In compliance thereof, report from the Court of Sub-Divisional Judicial Magistrate, Batala along with statements of the parties has been received, in which, it is mentioned that the compromise is genuine and there was no undue influence or coercion from any side.
6. I have heard learned counsel for the parties.
7. As per the allegations recorded in the FIR Luka Masih son of complainant Rulia Masih @ Rola got married with petitioner No.1 Rubeka about 13/14 years back and due to marital discord Rubeka left her matrimonial home and Luka Masih tried his best to bring her back to his home but she did not agree and rather all the accused used to humiliate Luka Masih. On 28.8.2019, petitioner No.2 called Luka Masih with assurance that Rubeka will accompany him and then Luka Masih left the house and at about 2 pm, complainant came to know that Luka Masih consumed some poison and then he was taken to hospital at Amritsar, where he died on the same day. Consequently the FIR was registered in this case against all the accused.

8. Admittedly complainant is father of deceased Luka Masih and he got recorded his statement in the Court concerned that the matter has been settled between the parties and he is having no objection if the impugned FIR is quashed on the basis of compromise.
9. Learned counsel for the parties are ad idem that in view of the settlement effected between the parties, the present petition deserves to be accepted. It has also come on record that the aforesaid compromise is genuine and the parties effected the same without any undue influence or coercion.
10. In case of **Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh, 2002(2) RCR(Criminal) 687**, the Hon'ble Apex Court quashed the criminal proceedings under Sections 306 IPC against the accused who was having quarrel with the deceased and told the deceased to go and die and the deceased committed suicide on the third day of quarrel.
11. The Hon'ble Apex Court in **S.S. Chheena vs. Vijay Kumar Mahajan and Ors. 2010(4) RCR(Criminal) 66**, while quashing a charge framed against the accused under Section 306 IPC observed that conviction merely on basis of harassment of deceased is unsustainable in law, without a positive act on the part of the accused to instigate or aid in committing suicide and the said act must have been intended to push the deceased into such a position that he committed suicide.
12. Further the Hon'ble Supreme Court in **Shabbir Hussain Vs. The State of Madhya Pradesh and others 2022 (1) RCR Criminal 610**

held that in order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. Mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC.

13. In view of the aforesaid settled law, it is clear that in order to prosecute a person under Section 306 IPC, there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide. In the instant case, prima facie, nothing is available on record to show that there was intention on the part of the petitioners and they actively committed certain acts proximate to the time of occurrence and thus compelled the deceased to commit suicide. Further, it appears that the parties have settled their dispute in an amicable manner.
14. The Coordinate Bench of this Court quashed FIR registered under Section 306 IPC on the basis of compromise in **CRM-M-29142-2021 Arsh Vikram Singh vs. State of Punjab and Ors.** decided on **4.5.2022** after discussing the settled law relating to ambit of Section 306 IPC.

15. In light of the above, this Court is of the view that the continuation of the criminal proceedings under Section 306 IPC against the petitioners would amount to abuse of the process of the Court. As per the full Bench judgment of this Court in **Kulwinder Singh and others v. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, it is held that High Court has power under Section 482 Cr.P.C to allow the compounding of non compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. Hon'ble Apex Court in case of **Gian Singh Vs. State of Punjab and another 2012 (4) RCR Criminal 543** had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected
16. For the reasons aforestated and having regard to the law laid down by Hon'ble Apex Court aforesaid judgments, this petition is allowed and FIR No.134 dated 29.8.2019 registered under Sections 306/34 IPC at Police Station City Batala District Gurdaspur on the basis of compromise dated 4.12.2019 (Annexure P-2) and all the subsequent proceedings thereof are hereby quashed qua the petitioners.

24.05.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No