

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

CRM-M-16668-2018 (O&M)
Date of decision: 20.4.2023

Archana Sharma

...Petitioner

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE KARAMJIT SINGH

Present: Mr. Ramesh Sharma, Advocate, for the petitioner.

Mr. Hakam Singh, AAG, Punjab.

Mr. Nitin Sharma Advocate, for
Mr. B.S.Jaswal, Advocate, for respondent No.2.

KARAMJIT SINGH, J. (Oral)

Prayer in this petition is for quashing of FIR No.28 dated 19.5.2015 registered under Sections 306 IPC at Police Station Bholath, District Kapurthala on the basis of compromise.

The above stated FIR was registered on the statement of the complainant/respondent No.2-Bhupesh Sharma brother of deceased Dev Kant Sharma against the petitioner who is wife of the deceased.

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.

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.

In compliance thereof, report from the Court of Additional Sessions Judge, Kapurthala 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.

I have heard learned counsel for the parties.

Brief facts of the case are that deceased-Dev Kant Sharma got married with the petitioner about 9 years back prior to the occurrence and the deceased was working as a stamp vendor. The couple was having one son and one daughter and the petitioner was working as a teacher in a school. The petitioner was having strained relations with the deceased for the last 3 years and she was demanding divorce from the deceased. However, deceased-Dev Kant Sharma wanted to save the marriage and due to stress, the deceased committed suicide on 19.5.2015. Resultantly, present FIR was registered against the petitioner alleging that she compelled her husband to commit suicide.

Learned counsel for the petitioner and for respondent No.2 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.

In case of **Sanju @ Sanjay Singh Sengar v. State of Madhya**

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.

The Hon'ble Apex Court in **S.S. Chheena v. 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.

Further the Hon'ble Supreme Court in **Shabbir Hussain v. 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.

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 petitioner and she 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.

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 v. State of Punjab and Ors.** decided on 4.5.2022 after discussing the settled law relating to ambit of Section 306 IPC.

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 v. 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.

For the reasons aforesaid and having regard to the law discussed above, this petition is allowed and FIR No.28 dated 19.5.2015

registered under Sections 306 IPC at Police Station Bholath, District Kapurthala and all the subsequent proceedings are hereby quashed qua the petitioner.

(**KARAMJIT SINGH**)
JUDGE

April 20, 2023

Paritosh Kumar

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