

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

CRM-M-16047-2023

Date of decision: 10.04.2023

Sunil Kumar

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Prince Goyal, Advocate
for the petitioner.

Mr. Deven Munjal, Advocate
for respondents No.2 to 8.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court by way of filing the second petition under Section 482 Cr.P.C. for quashing of FIR No.142 dated 22.12.2016, under Section 306 of IPC, registered at Police Station Gidderbaha, District Sri Muktsar Sahib along with subsequent proceedings arising therefrom on the basis of compromise dated 08.02.2023 arrived between both the sides.

Adumbrated facts of the case are that the FIR was lodged on the statement of Manohar Lal. It was alleged by the complainant that he has four daughters namely, Sunita Rani, Bobby, Sonia, Rajni and one son namely, Sanjeev Kumar @ Sanju. His daughter Bobby was married to Sanjeev Kumar son of Chiman Lal, resident of Guru Nanak Nagar, Gidderbaha, for the last about 17 years. His daughter Bobby got painted her house from Sunil Kumar (petitioner) son of Prem Chand. However, there arose a dispute regarding payment of money with Sunil Kumar i.e.

the petitioner. His son Sanjeev Kumar @ Sanju had also an altercation with Sunil Kumar. Thereafter, Sunil Kumar threatened his son Sanjeev Kumar @ Sanju that he would defame his sister as he has usurped his money. Due to repeated threats by Sunil Kumar, his son Sanjeev Kumar @ Sanju used to remain under depression and used to say to the complainant that he would commit suicide as Sunil Kumar has threatened him to defame his sister Bobby. Though he tried to pacify him, however, on 21.12.2016, he told him that today is his last day in the world. Thereafter, he left the shop on motorcycle but did not return home. They kept on searching him throughout the night but thereafter, they found his motorcycle, shoes and other articles near the canal bridge. The complaint was lodged to take legal action against Sunil Kumar as his son Sanjeev Kumar @ Sanju committed suicide due to the abetment given by Sunil Kumar. On registration of the FIR, investigation commenced and the challan was presented in the trial Court by the Investigating Agency. The trial Court framed the charges against the petitioner vide order dated 13.07.2017.

Learned counsel for the petitioner has contended before this Court that during the pendency of the trial, with the intervention of the respectables, both the sides have amicably resolved their differences and arrived at a compromise vide compromise deed dated 08.02.2023. He submits that the impugned FIR was lodged due to misunderstanding between both the sides but the petitioner had no complicity in the same. He has submitted that with the intervention of the respectables, both the sides decided to bury the hatchet and thus, bring to an end the ongoing proceedings in the impugned FIR. He submits that though, on the earlier

occasion, petitioner approached this Court by way of filing CRM-M-40688-2019 for quashing of this FIR on the basis of compromise, however, the wife of the deceased not being a signatory to the compromise, the petitioner had to withdraw the petition and hence, the petitioner had again approached this Court by way of filing the present petition. He submits that in the facts and circumstances of the case as alleged, offence under Section 306 IPC is not made out and as both the sides have now realized that the prosecution of the petitioner would be nothing but an abuse of the process of the Court, hence, they entered into a compromise and thus, the impugned FIR deserves to be quashed. He has relied upon the judgment titled as **Arsh Vikram Singh Vs. State of Punjab and others, 2022(4) Law Herald 2897.**

Learned counsel for respondents No.2 to 8 has endorsed the submissions made by counsel for the petitioner that both the sides have amicably resolved the dispute by way of compromise.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the son of the complainant committed suicide by jumping into the canal. The complainant made specific allegations that due to the abetment caused by the petitioner, his son committed suicide by jumping into the canal. On registration of the FIR, investigating agency completed the investigation and collected the evidence. Resultantly, challan under Section 173 Cr.P.C. has been filed against the petitioner. Learned trial Court has also found a *prima facie* case against the petitioner and thus, framed the charges for the offence under Section 306 IPC vide its order dated 13.07.2017. The case is pending before the trial Court for examination of the prosecution witnesses.

Hon'ble Supreme Court in *State of Haryana vs Bhajan Lal*, *1992 Supp (1) SCC 335* has held that the High Court has inherent power under Section 482 Cr.P.C. for quashing the FIR, however, the same should not be exercised for the offence falling under the heinous categories. It has been further observed in *Bhajan Lal's (supra)* 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.”

Hon'ble Supreme Court in *Gian Singh vs. State of Punjab and another, (2012) 10 SCC 303*, has further held as under:

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to

quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of

justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Recently, Hon'ble the Supreme Court in the case of **Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and another,** **2021 SCC Online SC 315** has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with great circumspection and sparingly, as it has been observed, in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

There is no doubt regarding the judgments relied upon by learned counsel for the petitioner before this Court i.e. **Arsh Vikram Singh's case (supra)**. However, in all its humility, this Court finds that the same is distinguishable in the facts and circumstances of the present case.

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 offences which are considered as crime against society. As per the law settled by Hon'ble Supreme Court, there cannot be

a straight jacket formula to be laid down for exercising power under Section 482 Cr.P.C. and the same would depend on the merits of each case.

The judgment relied upon by counsel for the petitioner is prior in time to the judgment passed by the Hon'ble Supreme Court in Daxaben's case (supra). In view of the law settled by the Hon'ble Supreme Court, this Court finds no merit in this petition. Resultantly, the present petition being devoid of any merit is hereby dismissed.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10.04.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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