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

**CRM-M No. 21356 of 2023 (O&M)
Date of Decision: 05.12.2023**

Subhash Chander and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Tushar Sharma, Advocate,
for the petitioners.

Mr. Gurlal Singh Dhillon, Assistant Advocate General, Punjab

Mr. Vishal Singh Chauhan, Advocate
for respondent No. 2.

HARKESH MANUJA, J. (ORAL)

By way of present petition under Section 482 Cr.P.C. the petitioners pray for quashing of case FIR No. 0042 dated 22.03.2016 (Annexure P-1) registered under Sections 306 and 34 of IPC, Police Station Division 2, District Police Commissionerate Jalandhar, alongwith all consequential proceedings arising out of the same, on the basis of compromise dated 15.04.2023 (Annexure P-3).

[2] As per allegations levelled in the FIR, Ashok Kumar who happened to be the brother of complainant, committed suicide as he was being pressed by the petitioners for returning the money, which was outstanding with the deceased-Ashok Kumar.

[3] This Court, while issuing notice of motion vide order dated 28.04.2023, directed the parties to appear before trial Court for getting their statements recorded as regards the veracity of compromise arrived at between them.

[4] In pursuance of the aforesaid order dated 28.04.2023, a report dated 20.05.2023 has been received from the concerned Court, stating that compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. None of the accused have been declared as proclaimed offender.

[5] Learned counsel for the petitioners submits that once, a compromise has been arrived at between the parties without any pressure and respondent No.2 has no objection as regards quashing of FIR as well as all other subsequent proceedings arising out of the same against the petitioners; the dispute purely personal in nature, there does not appear to be any impediment as regards quashing of present FIR. He also submits that even, in order to maintain peace and harmony between the parties, particularly under the circumstances wherein the alleged offences have no societal interest involved, it would be appropriate to render complete quietus to the aforementioned dispute by quashing the FIR on the basis of compromise entered into between the parties. Learned counsel for petitioner also relies upon a judgment passed by this Court in **CRM-M-37957-2015** titled as ***“Harmesh Singh and Anr. Vs. State of Punjab and Anr.”*** decided on **09.02.2017**.

[6] On the other hand, learned State Counsel submits that allegations in the present FIR are of serious nature and he opposes the prayer

made in the petition.

[7] I have heard learned counsel for the parties and gone through the records including the contents of the FIR, the compromise and the report dated 20.05.2023. Although, quashing of FIR has been sought on the basis of compromise, however, even on merits, perusal of the contents thereof if taken to be at their face value, offence under Section 306 IPC is not made out against the petitioners. Undisputedly, as per allegations, the petitioners were merely asking for return of their money from the deceased, which, in the given situation, is part of natural behaviour; a lender being legally entitled to ask for return of the amount, and that, in the given circumstances, cannot be treated as instigation / inducement. Support can be drawn from a Division Bench's judgment of Hon'ble Bombay High Court in case titled ***"Shri Subhash Ramgopal Bharuka and others Versus The State of Maharashtra and others"***, 2020 ALL MR (Cri) 4194. Relevant para-13 of the said judgment is re-produced hereunder:-

" The position of law given in aforesaid cases show that intention a kind of mens-rea needs to be there for use of Section 107 of the Indian Penal Code. For proving the abetment of suicide, which is made punishable under Section 306 of the Indian Penal Code, 1860 Section 107 of the Indian Penal Code needs to be used and if there is nothing to show that there was such intention in existence of the accused, he cannot be prosecuted for the offence of abetment of suicide. The matters of committing suicide by debtors when it becomes impossible to return the debt are increasing day by day. Many persons help their friends and others by giving hand loan or by selling goods on credit. They are bound to ask the debtor to pay the dues. If the debtor feels such demand as harassment, on the basis

of that circumstance, inference cannot be drawn that situation was created by the creditors due to which no other alternative was left to the debtor than to commit suicide. If he finds himself unable to return the amount and he takes such step, the persons who are entitled to recover the amount and who have prosecuted legal action, which is permissible under law, cannot be blamed for suicide of such person even if he has blamed such persons for suicide in suicide note like present one. If the Court goes with the presumption, in such cases, that inference is possible of abetment as defined in Section 107 of the Indian Penal Code, the intention behind the provision of Section 107 of the Indian Penal Code will become otiose.

In the given circumstances as well, there is no direct or active act of the petitioners which led to suicide. There has been no intentional act of aiding or facilitating the deceased to commit suicide and end his life, seeing no other option. The ingredients of abetment are thus missing with no presence of *mens rea*.

[8] Moreover, the parties having settled their dispute so as to live in peace in future, no useful purpose would be served by proceeding further with the criminal proceedings. In light of above developments, no cause remains for the trial Court to invest further time and effort in adjudicating this FIR. The compromise in question is even found to be fully in consonance with the directions issued by this Court in ***Kulwinder Singh & Ors. Vs. State of Punjab, 2007(3) RCR (Criminal) 1052*** and ***Gian Singh Vs. State of Punjab & Anr., 2012(4) RCR (Crl.) 543***.

[9] Thus, in view of the discussions made hereinabove besides the aforesaid report, accompanied by statements of both the parties as well as

keeping in mind the law laid down in the aforementioned judgments, the petition is **allowed** and the FIR (supra) as also consequential proceedings arising therefrom, are hereby quashed *qua* the petitioners.

[10] The aforesaid order shall, however, be subject to payment of costs of Rs. 10,000/- to be deposited by the petitioner(s) with the Punjab and Haryana High Court Bar Association, Chandigarh, within a period of two weeks from today.

December 05, 2023
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>