

271 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-24830-2023 (O&M)

Date of Decision: 05.12.2023

ASHUTOSH SHIV AND OTHERS

...Petitioners

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Gors, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Rakesh Gupta, Advocate
for respondents No. 2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 113 dated 28.07.2019 registered under Section 306 of Indian Penal Code at Police Station Division A, Amritsar and all subsequent proceedings arising therefrom in view of the compromise each dated 10.05.2023 (Annexure P-2).

2. The FIR registered on the statement of complainant-Manish Sharma on the allegations that on 27.07.2019, he received information from the police about the demise of his brother-Ashish Sharma by hanging himself and deceased brother of the complainant used to remain depressed due to work related stress imposed by the management of ZYDUS Healthcare. Now with the intervention of respectable persons, the matter has been amicably compromised between the parties and they have resolved their disputes and differences.

3. Learned counsel for the petitioners refer to judgments of coordinate benches of this Court in **Satish Kumar Bhargav and others v. State of Punjab and another 2016(2) R.C.R(Criminal) 103**, **Varinder Kumar @Bit and others v. State of Punjab and another CRM-M-13053-2017** decided on 22.08.2019, **Amar Nath v. State of Punjab and another CRM-M-12158-2018** decided on 09.05.2019 and **Nirmaljit Singh and others v. State of Punjab and another CRM-M-50641-2021** decided on 10.04.2023 to contend that quashing of FIR registered under Section 306 IPC based on compromise can be allowed.

4. Per contra Learned State counsel has opposed the prayer to quash the FIR on the basis of compromise by submitting that the offence under Section 306 is heinous in nature and as such compromise cannot be allowed in view of law laid down in **Daxaben v. State of Gujrat and others 2022 SCC OnLine SC 936** where it was expressly forbidden to quash the FIR based on financial settlement with informant, surviving spouse, parents, children or anyone.

5. The offence of abetment of suicide as provided under Section 306 of IPC is non-compundable due to its grave and heinous nature. However, High Court is competent to quash criminal proceedings relating to non-compoundable offences in exercise of its inherent power under Section 482 CrPC. It is well settled law that where the offence is private in nature and a compromise regarding the same has been arrived at voluntarily and without undue pressure, the criminal complaint or FIR or any criminal proceeding can be quashed in exercise of power under Section 482 CrPC.

6. A two Judge bench of the Hon'ble Supreme Court in **Daxaben(supra)**, speaking through Justice Indira Banerjee, made the following observations:

"37. Offence under Section 306 of the IPC of abetment to commit suicide is a grave, non-compoundable offence. Of course, the inherent power of the High Court under section 482 of the Cr.P.C., 1973 is wide and can even be exercised to quash criminal proceedings relating to non-compoundable offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have compromised disputes essentially civil and personal in nature, the High Court can exercise its power under section 482 of the CrPC, 1973 to quash the criminal proceedings. In what cases power to quash an FIR or a criminal complaint or criminal proceedings upon compromise can be exercised, would depend on the facts and circumstances of the case."

7. A three Judge bench of the Hon'ble Supreme Court in State of **Madhya Pradesh v. Laxmi Narayan and ors (2019) 5 SCC 688** opined that even though offence under Section 307 IPC is a serious heinous offence and should be treated as a crime against society, it is open to the High Court to explore the facts and circumstances of the case to be satisfied that the ingredients of Section 307 are made out.

8. A similar approach can be taken with regard to Section 306 IPC to assess whether the offence is made out in the first place from the contents of the FIR before considering the case for quashing of the same on the basis of compromise. In the instant case, a perusal of the FIR indicates that the FIR was lodged on the statement of complainant- Manish Sharma, who is brother of the deceased. The accused named in the FIR are employees of ZYDUS Healthcare Limited. Allegations made in the FIR are that on 27.07.2019, complainant received information from the police about the death of his brother-Ashish Sharma by hanging himself. It is further submitted that deceased brother of the complainant, used to remain

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depressed due to work pressure imposed by the management of ZYDUS Healthcare.

9. A perusal of the FIR indicates that no specific attribution is made against the petitioners, neither is it clear as to how the petitioner harassed the deceased to abet his suicide. Mere mention of name of the petitioners in the suicide note is not sufficient proof to invoke Section 306 IPC against him.

306. Abetment of suicide. - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

107. Abetment of a thing. - A person abets the doing of a thing, who -

First. - Instigates any person to do that thing; or

Secondly. - Engages with one or more other person or persons in any conspiracy or the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of the thing; or

Thirdly. - Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1. - A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2. - Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

10. A two Judge bench of the Hon'ble Supreme Court in **Gangula Mohan Reddy v. State of Andhra Pradesh 2010(1) SCC 750**, speaking through Justice Dalveer Bhandari, held as follows:

"19. This court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), 2009(4) RCR (Criminal) 196 : 2009(5) RAJ 278 : 2009(11) SCALE 24 had an occasion to deal with this aspect of abetment. The court dealt with the dictionary meaning of the word "instigation" and "goading". The court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self esteem and self respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

20. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

21. The intention of the Legislature and the ratio of the cases decided by this court is clear that in order to convict a person under section 306 Indian Penal Code 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."

11. In **Swamy Prahaladdas v. State of M.P & Anr 1995 SCC(Cri) 943**, where the appellant was booked under Section 306 IPC as he had remarked 'go and die' to the deceased, a two Judge bench of the Hon'ble

Supreme Court held that merely uttering these words cannot be regarded as instigation and even a prima facie case cannot be made out on this ground alone.

12. On application of the aforesaid legal position to the facts and circumstances of the present case, it transpires that a prima facie case under Section 306 IPC is not made out. The allegations levelled are vague and general in nature and no specific attribution has been made. Furthermore, ingredients of Section 306 IPC are not made out by merely blaming the petitioners for the death of the deceased by suicide. This Court is not convinced that an offence under Section 306 IPC is made out in the current facts and circumstances and is of the opinion that the FIR (supra) deserves to be quashed on the basis of compromise amongst the parties. Keeping in view of the law laid down by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466** and **Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.) 1052**, this petition is allowed and FIR No. 113 dated 28.07.2019 registered under Section 306 of Indian Penal Code at Police Station Division A, Amritsar and all subsequent proceedings arising out of the same are quashed qua the petitioners only.

05.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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