

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50903-2021
Date of Decision:-04.05.2023

SUMATI KALIA AND OTHERS

... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. N.S. Sodhi, Advocate
for the petitioners.

Mr. Hakam Singh, AAG, Punjab.

Mr. Naveen Mehra, Advocate
for respondent No.2.

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KARAMJIT SINGH, J. (Oral)

1. Present petition is for quashing of FIR No.199 dated 14.12.2018 registered under Sections 306/34 IPC at Police Station Basti Bawa Khel, District Jalandhar on the basis of compromise (Annexure P-2) along with other consequential proceedings arising thereto.
2. The abovesaid FIR was registered on the application moved by complainant/respondent No.2-Sheena Kalia against the petitioners.
3. On notice of motion, respondent No.2 appeared in the Court through her counsel and pleaded that she 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 Judicial Magistrate Ist Class, Jalandhar 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. Deceased Rahul Kalia was married and he left behind her widow respondent No.2-Sheena Kalia. Petitioner No.2 is mother and petitioner No.3 is brother of deceased Rahul Kalia while petitioner No.1 wife of petitioner No.3. Rahul Kalia committed suicide on 17.08.2018 and thereafter respondent No.2 got registered impugned FIR against the petitioners wherein she alleged that her husband left behind one suicide note and that the petitioners are responsible for death of her husband.
8. 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.

9. 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.
10. 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.
11. 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.
12. 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.

13. 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.
14. 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

15. For the reasons aforestated and having regard to the law laid down by Hon'ble Apex Court aforecited judgments, this petition is allowed and FIR No.199 dated 14.12.2018 registered under Sections 306/34 IPC at Police Station Basti Bawa Khel, District Jalandhar on the basis of compromise (Annexure P-2) and all the subsequent proceedings thereof are hereby quashed qua the petitioners.

04.05.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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