

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

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2023:PHHC:138718

CRM-M-3146-2020 (O&M)

Date of decision: October 30th, 2023

Rajvir Kaur and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. G.K. Mann, Senior Advocate
with Ms. Simrat Kaur, Advocate
for the petitioners.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

Dr. Puneet Kaur Sekhon, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J.

Petitioner are seeking quashing of FIR No.94 dated 06.06.2019 under Sections 306/34 of the Indian Penal Code, 1860 registered at Police Station Payal, District Ludhiana and consequential proceedings arising therefrom.

2. Learned senior counsel, *inter alia*, contends that the petitioners No.1 and 2, who are sisters, were married to two brothers. However, due to disputes in their marriages, both petitioners No.1 and 2 left their marital homes in April, 2017 and thereafter started residing separately from their husbands. Petitioner No.1 filed a complaint against her husband-Gurmukh Singh (hereinafter referred to as 'deceased') and his parents, while petitioner No.2 filed a complaint against her husband, mother-in-law, father-in-law and brother-in-law Gurmukh Singh (deceased). Besides this, petitioner No.1 also filed a petition under the Domestic Violence Act, resulting in a Court order restraining the deceased from committing domestic violence and directing petitioner

No.1 to provide her a separate accommodation in the shared house.

In addition, she was also given monetary relief by the Court below.

3. Learned senior counsel has further contended that on the intervening night of 5th and 6th of September, 2019, the deceased committed suicide resulting in the registration of the FIR in question, wherein totally baseless and false allegations were levelled against the petitioners of having instigated the deceased to hang himself to death. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-4, it has been vehemently argued that no offence under Section 306, 107 of the IPC is made out, as none of the ingredients necessary to constitute the offence alleged, are present therein. Learned senior counsel has asserted that as per the admitted case of the prosecution, both petitioners No.1 and 2 had already left their matrimonial home much prior to the suicide of the deceased, and hence there was no question of they having intentionally provoked, incited or goaded the deceased by any physical act, or otherwise, to end his life. Furthermore, the absence of any suicide note and there being no *prima facie* evidence of the petitioners having pushed the deceased to commit suicide, soon before the occurrence in question, left no manner of doubt that the criminal proceedings had been initiated against them only to wreak vengeance. It has also been argued that in cases of abetment of suicide, there must be clear proof that the accused encouraged or influenced the deceased to commit suicide either directly or indirectly; simply accusing someone of harassment without there being any evidence of their actions leading to the suicide, would not be enough to sustain conviction under Section 306 of the IPC. Still further, merely because the petitioners had availed the legal remedies

available to them, it would in no manner be termed as ‘incitement’ so as to attract the mischief of an offence under Section 306 IPC. Hence, continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law for which the FIR in question deserved to be quashed. While referring to the observations made by the Hon’ble Apex Court as well as this Court in catena of cases, it has been urged by the learned senior counsel that it has been held time and again that mere quarrel or strained relations between husband and his wife and in the course of some arguments between them, even if one of the spouses asks the other to go and end his life, it would not amount to abetment of suicide. Learned senior counsel in support has placed reliance upon *Amalendu Pal Versus State of West Bengal 2010 (1) SCC 707*, *CRA-S-685-SB-2014* titled as *Binder alias Balwinder Versus State of Punjab*, *Criminal Petition No.3095 of 2022* titled as *Sri V.V. Singara Velu and another Versus The State of Karnataka, Sanju @ Sanjay Singh Sengar Versus State of M.P. 2002 (2) RCR (Criminal) 687*, *Special Leave to Appeal (Crl.) No.7284/2017* titled as *Shabbir Hussain Versus The State of Madhya Pradesh & Ors.*

4. *Per contra*, learned counsel for the complainant has vehemently opposed the prayer and submissions made by the learned senior counsel opposite by urging that it was a clear cut case of abetment of suicide which was perpetuated by none other than all the petitioners. It has been contended that following the lodging of the FIR in question, the investigating agency had carried out a thorough investigation, and after gathering all the relevant material, finding cogent and convincing evidence, with respect to the involvement of the petitioners in the suicide of Gurmukh Singh, the investigating agency

had rightly presented a challan against the petitioners before the trial Court. It has further been contended that since the trial Court was now seized of the matter, whatever was being urged by the petitioners qua their innocence and false implication, could be addressed during trial.

5. Learned counsel for the complainant has further contended that sufficient cogent pieces of evidence had been collected by the police after the lodging of the FIR from which it was clearly discernible that offence under Section 306/107 of the IPC was made out against the petitioners. Learned counsel for the complainant has referred to the statement of complainant-Jaswinder Singh, his brother Harjit Singh as well as Jagtar Singh, husband of cousin sister of Balwinder Kaur (wife of petitioner No.3), which has been annexed as Annexure A. She has contended that a perusal of the statements reveal that they all had stated that just before the suicide of the deceased on 06.09.2019, petitioner No.1 Rajvir Kaur, her father Inderjit Singh i.e. petitioner No.3 had come to them on 05.09.2023 and in their presence, when the deceased was called, both petitioner No.1 and petitioner No.3 pressurized him and demanded that land and money be transferred in their names. The deceased, in a state of extreme distress, had then expressed a desire to end his life due to the torture that he was being subjected to, and the accused persons had retorted that if the deceased was to die, today or tomorrow, it would not matter to them. Thus, there was a proximate link between the abetment to the deceased and his suicide. Furthermore, learned counsel has also drawn the attention of this Court to the statement of Harjit Singh, uncle of the deceased, wherein also he had stated that the deceased had slipped into deep depression on account of the continuous harassment and torture meted

out to him and had also expressed his intention to commit suicide. Additionally, the learned counsel for the complainant has referred to the statement of Balpreet Kaur (daughter of sister of the complainant), which has been annexed as Annexure C and Prabhjot Kaur (Annexure D). It was submitted that in their respective statements also, it had been categorically stated that the petitioners had been indulging in abusive language and extending threats to the deceased; and petitioner No.2 had even extended threats through WhatsApp chats to Balpreet Kaur, as she was niece of the complainant. Learned counsel has further argued that the accused had filed false complaints against the deceased and his brother making baseless allegations of domestic violence and dowry demands, which had seriously depressed the deceased. Upon inquiry, all these allegations were found to be untrue. Learned counsel has drawn the attention of this Court to inquiry report dated 22.02.2018 (Annexure G). Hence, learned counsel has argued that it clearly suggested a malicious intent on the part of the accused to harass the deceased to such an extent that he was pushed against the wall and left with no other option but to take his own life. Furthermore, learned counsel for the complainant has disputed the claims made by the learned senior counsel for the petitioners that there was no positive act to incite or aid the deceased in committing suicide, especially in close proximity to his suicide. Learned counsel submitted that the very fact that just a day prior to the occurrence in question, petitioner No.1 along with her father, had called the deceased, humiliated him and also threatened him with dire consequences, *prima facie*, was sufficient to attract the mischief of offence under Section 306/107 of the IPC.

6. I have heard learned counsel for the parties and perused the

relevant material on record.

7. On examination of the allegations levelled and the evidence collected by the investigating agency pursuant to the registration of the FIR in question, the ingredients of Section 306, 107 IPC are made out. *Prima facie*, it comes across that the petitioners constantly harassed and humiliated the deceased both in private and public. As per the allegations levelled, they repeatedly demanded that the deceased transfer his property as well as money to them. They also filed multiple criminal and civil cases against the deceased and his family. Some of these criminal cases were found to be false or were withdrawn by the petitioners themselves. These pressure tactics had severely distressed the deceased to the point of committing suicide. On perusal of the evidence and other material collected and which is part of the challan, *prima facie* the ingredients of offence under Section 306 are made out. There may not always be any direct evidence of instigation to the deceased in the form of a suicide note, therefore, in such situations, it can be inferred from the circumstances that whether such an atmosphere had been created by the accused pushing the deceased to such an extent that he saw no way out but to end his own life. It also needs to be reiterated that while considering a prayer for quashing of an FIR under Section 482 Cr.P.C., the allegations made in the FIR are to be assumed as true and the Court cannot undertake a roving inquiry into the allegations to ascertain their accuracy. The Court's primary concern while exercising its powers under Section 482 Cr.P.C. has to be whether the allegations, if accepted at face value, would constitute the offence(s) alleged or not. At this stage, this Court cannot delve into, thus, determining the truth or false of the allegations levelled. The Hon'ble

Supreme Court has in a catena of judgments laid down the relevant criteria to be considered while deciding a petition under Section 482 Cr.P.C. for quashing of the an FIR that (i) whether the allegations in the FIR constitute a crime; (ii) whether the allegations are so unlikely that a reasonable person would not think, there is enough reason to proceed with the FIR. The assertions made by the Ld. Counsel for the petitioners that they have been falsely implicated cannot be gone into at this stage as it is a matter of trial which can only be proved when the parties lead their respective evidence. It needs to be reiterated that in a criminal case, there may not always be any direct evidence forthcoming with reference to the commission of an offence and in such a case, an inference has to be drawn from the surrounding circumstances. Such inference can only be drawn at the time of trial when the parties lead their respective evidence by the trial Court and not at this stage.

8. As a sequel to the above, this Court does not find any merit in the instant petition and the same is, therefore, dismissed.

9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

October 30th, 2023*Puneet***(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No