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

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Date of Decision:- 31.07.2024

Vishali Kapoor and Ors.

....Petitioners

Vs.

State of Punjab and Anr.

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Ms. Ritu Punj, Advocate with
Mr. Sahaj Punj, Advocate and
Ms. Suraksha Masih, Advocate for petitioners.

Mr. Gautam Thapar, AAG, Punjab.

Mr. Vishal Dhall, respondent No.2 in person.

AMARJOT BHATTI, J.

1. Petitioners Vishali Kapoor, Rajeev Kapoor, Meenu Kapoor and Naresh Kapoor have filed criminal revision against orders dated 08.11.2021 and 11.11.2021 passed by learned Additional Sessions Judge, Patiala in FIR No.150 dated 06.08.2020, under Section 306 IPC, registered at Police Station Kotwali, Nabha, District Patiala as the same being erroneous and against the facts and law are liable to be set aside.

2. As per facts of the case, ruqa was received from Civil Hospital, Nabha that dead body of Janak Raj Dhall s/o Sohan Lal was lying in the mortuary. ASI Nazar Singh recorded statement of Vishal Dhall where he stated that his marriage was performed with Vishali Kapoor on 11.03.2020. After few days of marriage, his wife Vishali Kapoor, father-

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in-law Rajeev Kapoor, paternal uncle Naresh Kapoor and mother-in-law Meenu Kapoor used to harass him and his family without any reason. In fact his wife Vishali Kapoor had studied in Delhi and she was doing job there. After marriage, she was unhappy in the matrimonial home. His father Janak Raj remained disturbed due to the act and conduct of aforesaid persons and finally, he committed suicide on 16.08.2020 by hanging himself from ceiling fan. He prayed for strict action against Vishali Kapoor and her family members. Suicide note was recovered. After investigation, challan was presented in the Court and all accused were chargesheeted for the offence under Section 306/34 of IPC by passing orders dated 08.11.2021 and 11.11.2021. Feeling aggrieved of the aforesaid orders, present criminal revision has been filed.

3. Learned counsel for petitioners argued that petitioner No.1- Vishali Kapoor wife of complainant is well educated lady having done her Bachelor of Technology (Electronics and Communication) Engineering from Modern Institute of Engineering and Technology, Village Mohri, Shahbad, Kurukshetra University, Kurukshetra. Copy of her B.Tech Degree is Annexure P-1. Petitioners No.2 and 3 are parents whereas petitioner No.4 is cousin brother of petitioner No.2. In fact petitioner No.1-Vishali Kapoor was maltreated from the very beginning of marriage on account of demand of dowry. They used to taunt her that she has not brought car or motorcycle in dowry. She was beaten up and told to leave the house. She was told to satisfy their demand for her return in the matrimonial home. It is alleged that on 28.07.2020, she was beaten up. She rescued herself by running towards gate of the house. She called her

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parents at Ambala who took her back in her parental house. She is also relying upon telephonic calls and messages. She was medically examined on 30.07.2020, Discharge Card dated 31.07.2020 is Annexure P-3. She had filed a complaint dated 04.08.2020 which was marked to Women Cell by office of Superintendent of Police, Ambala. Said complaint is Annexure P-4. Women Cell, Ambala summoned the complainant and his family members for conciliation on 06.08.2020. They kept on waiting for the opposite party but they did not appear. Later on she came to know that a false FIR under Section 306 of IPC has been registered against the entire family which is Annexure P-5. They further came to know that there was handwritten suicide note left behind by deceased victim Janak Raj. Translated copy of alleged suicide note is Annexure P-6. On the complaint of petitioner No.1-Vishali Kapoor, FIR No.134 dated 05.12.2020 was registered under Sections 323, 354, 406, 498-A of IPC at Women Police Station, Ambala. Challan has been presented in the said case. Copy of FIR is Annexure P-9. Present petitioners were granted anticipatory bail by High Court, copies of orders are Annexures P-11, P-12 and P-13.

Learned Additional Sessions Judge has committed error apparent on the face of record in order dated 08.11.2021 where charge was ordered to be framed under Section 302 read with Section 34 of IPC. Later on, the same was corrected by passing impugned order dated 11.11.2021. Learned trial Court was not competent to change the said order. At the time of framing of chargesheet, facts of the case were not considered by learned trial Court. In fact, there was no abetment on the part of present



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petitioners and commission of suicide by Janak Raj. It was petitioner No.1-Vishali Kapoor who was being maltreated in the matrimonial home on account of demand of dowry and on her complaint FIR No.134 dated 05.12.2020 (Annexure P-9) was registered. There are no specific allegations against the petitioners. To support his arguments, learned counsel for petitioners has relied upon judgment of Hon'ble Supreme Court of India 1979(3) SCC 4 titled "**Union of India vs. Prafulla Kumar Samal and another**" and para No.10 of which runs as under:-

"10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out;

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test of determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced Court cannot act merely as a Post-Office or a mouth-piece of the prosecution, but has to consider the broad



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probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

4. It is pointed out that Vishali Kapoor had returned to her parental house after the incident of beating on 28.07.2020. There was no abetment on their part which compelled Janak Raj to take this grave step. Learned counsel for petitioner has relied upon another judgment of Hon’ble Supreme Court of India titled “***Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh***” where in that case in a quarrel between accused and husband of his sister, the accused told the deceased to go and die and on third day of quarrel, deceased committed suicide. It was observed that there was sufficient time for the deceased to think over and reflect and in that case, it was held that charge of abetment against accused was not justified and the same was quashed.

Learned trial Court has failed to consider background of the present case and framed the charge without proper appreciation of the facts of the case. It is submitted that impugned orders dated 08.11.2021 and 11.11.2021 for framing chargesheet against all petitioners under Section 306 read with Section 34 of IPC may kindly be set aside by accepting the present revision and all accused deserve discharge in the aforesaid FIR.

5. On the other hand, learned counsel representing State and respondent No.2/complainant strongly argued that facts of the case and the documents on record were rightly considered by learned trial Court for



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framing of chargesheet. There is no illegality or irregularity committed by learned trial Court. In this case, Janak Raj left behind suicide note where present petitioners are specifically named. Deceased had explained facts and circumstances under which he was compelled to commit suicide. It is argued that at the time of framing of chargesheet, only *prima facie* case is to be seen on the basis of material placed on record. Learned trial Court is not expected to evaluate or analyse the facts or the documents on record in detail. In support of his arguments, learned counsel for respondent No.2/complainant has relied upon the judgment of Madhya Pradesh High Court in Criminal Revision No.4468 of 2018 decided on 28.11.2023 titled ***“Juned vs. State of Madhya Pradesh Station House Officer and Ors.”***

where in para No.20 it was observed as under:-

“In view of the aforesaid prepositions, the learned trial Court, while framing of charges, must apply its judicial mind on the material placed on record and must be satisfied that there is strong possibility subsist that the accused has committed the offence. At the juncture of framing of charges, the Court has to prima facie examine whether there is sufficient ground for proceeding against the accused. Nevertheless, the Court is not expected to evaluate or analyse the findings in order to arrive at the conclusion that the material furnished by the prosecution are sufficient to convict the accused or not? In the case at hand, the findings of learned trial Court regarding prima facie case against the accused persons appear to be infallible.”

Therefore, criminal revision preferred by petitioners is without merits and deserve dismissal.

6. I have considered the arguments and documents placed on record carefully. In the case in hand, FIR was registered on the statement

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of Vishal Dhall complainant who is respondent No.2. It was a case of unnatural death. Janak Raj committed suicide by hanging himself from the ceiling fan. On receiving the dead body of Janak Raj, police came into action and statement of Vishal Dhall-respondent No.2 was recorded, on the basis of which present FIR was registered. It is matter of record that in this case all the petitioners were granted anticipatory bail. After completion of investigation, challan was presented and all the accused are chargesheeted under Section 306 read with Section 34 of IPC. It is matter of record that in order dated 08.11.2021, instead of mentioning 306 IPC, offence under Section 302 IPC was mentioned which was later on corrected vide order dated 11.11.2021. However, in the chargesheet dated 08.11.2021 offence under Section 306 read with Section 34 IPC was correctly mentioned. Therefore, wrong mentioning of offence in interlocutory order dated 08.11.2021 was merely typographical error and it will not effect the chargesheet framed against present petitioners/accused. Trial Court was competent to correct and clarify said typographical error.

7. Facts of the case clearly indicate that there was matrimonial dispute in the family. Vishali Kapoor got married with Vishal Dhall and after marriage, they started residing in the matrimonial home in Vikas Colony, Nabha, District Patiala. Present petitioners have levelled allegations against respondent No.2 and his family for maltreatment on account of demand of dowry. It is matter of record that on the complaint of Vishali Kapoor, FIR No.134 dated 05.12.2020 has been registered under Sections 323, 354, 406, 498-A of IPC at Women Police Station, Ambala and challan has been presented. Merits of that case will be seen by learned



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trial Court by appreciating the facts and the evidence led before that Court. At the time of framing of chargesheet, *prima-facie* case is to be seen, based on the evidence collected by the Investigating Officer in shape of statements of witnesses and documents relied upon, at the time of presentation of challan. In the case in hand, apart from the testimony of complainant and other witnesses, there is detailed suicide note of Janak Raj (Annexure P-6) in which he has explained the reason for committing suicide. It is a case of unnatural death supported by suicide note.

Therefore, considering these facts, I do not find any illegality or irregularity committed by learned trial Court by framing chargesheet against petitioners under Section 306 read with Section 34 of IPC. Merits of the case can be seen only after recording of evidence during trial. Consequently, I do not find merits in the criminal revision preferred by petitioners and the same is accordingly dismissed.

My above observations are made for the disposal of present criminal revision and it will have no bearing on merits of the case.

8. Criminal revision is accordingly dismissed.

9. Pending miscellaneous application(s), if any, stand disposed of accordingly.

31.07.2024

Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No