

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.6122 of 2024 (O&M)
Date of decision: 03.04.2024

GIAN SINGH AND OTHERS

.... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. K.S. Kahlon, Advocate for the petitioners.

Mr. Satjot Singh, A.A.G., Punjab.

Mr. Atul Aggarwal, Advocate for respondent No.2.

MANISHA BATRA, J. (oral)
CRM-8382-2024

This application is disposed of as having been rendered
infructuous.

Main case

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No.131 dated 09.12.2022 under Sections 306 and 34 of IPC registered at Police Station Sekhwan, District Batala (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of compromise deed dated 04.02.2023 (Annexure P-2).
2. The aforementioned FIR had been lodged by respondent No.2/complainant and investigation was commenced thereon.
3. It is submitted by counsel for the petitioners that a compromise has been arrived at between the parties and they have resolved their *inter se* dispute, which was reduced into writing as compromise deed dated 04.02.2023 annexed with the present petition as Annexure P-2.

4. On the basis of said compromise, the petitioners have prayed for quashing of the aforesaid FIR and all the subsequent proceedings on the ground that continuation of such proceedings would be a futile exercise.

5. This Court vide order dated 05.02.2023 and thereafter, vide order dated 07.03.2024 had directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court was also directed to send his/her report along with the said statements.

6. Pursuant to the aforesaid order, the Judicial Magistrate Ist Class, Batala has sent report vide endorsement No.92 dated 21.03.2024 to this Court along with the statement of respondent No.2/complainant-Kuldeep Singh, and joint statement of the petitioners/accused and statement of Investigating Officer ASI-Charanjit Singh recorded on 15.03.2024.

7. Short reply dated 03.04.2024 filed on behalf of the respondent-State is taken on record.

8. Vakalatnama filed on behalf of respondent No.2 is taken on record.

9. On the basis of these statements, it is submitted by learned Magistrate that the compromise effected between the parties is genuine, out of free Will and without any pressure or coercion. It is also mentioned in the report that apart from the petitioners, there is no other accused in the FIR and that the accused have not been declared proclaimed persons in this case.

10. I have heard learned counsel for the parties and besides perusing the report by learned Judicial Magistrate, have also perused the record.

11. The Hon'ble Supreme Court of India in ***Amalendu Pal v. State of West Bengal(2010) 1 SCC 707*** has 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. In ***Chitresh Kumar Chopra v. State (Government of NCT of Delhi)(2009) 16 SCC 605***, it was held by Hon'ble Supreme Court that abetment by a person is when a person instigates another to do something. Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no option except to commit suicide. Similar view has been taken by a coordinate Bench of this Court in ***State of Punjab vs. Kamaljit Kaur alias Bholi and another***, reported as ***2008(2) RCR (Criminal) 562***. Reference can also be made to ***Gangula Mohan Reddy vs. State of Andhra Pradesh*** reported as ***(2010) 1 Supreme Court Cases 750***, wherein Hon'ble Supreme Court has held that 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. 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 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.

12. The ratio of law as laid down in aforementioned judgments, when applied to the peculiar facts of the present case, would clearly show that in the present case offence under Section 306 IPC is not made out and even on merits, the FIR and subsequent proceedings arising therefrom, deserve to be quashed.

13. It is well settled that the High Court has power to quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to prevent the abuse of process of law or otherwise to secure the ends of justice. Such power is not confined to matrimonial disputes alone. In this regard, reference can be made to a Full Bench judgment of this Court in ***Kulwinder Singh and others v. State of Punjab, 2007 (3) RCR (Criminal) 1052***. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is of wide plenitude with no statutory limitation. Such power can certainly be exercised in cases relating to offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The High Court is required to consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the criminal proceedings.

Reference in this context can be made to Hon’ble Apex Court judgments cited as *Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543* and *Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466*.

14. In view of the proposition as settled in the aforementioned cases, this Court finds that continuation of proceedings would be an abuse process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioners by quashing of the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. Accordingly, the petition is allowed and the FIR No.131 dated 09.12.2022 under Sections 306 and 34 of IPC registered at Police Station Sekhwan, District Batala (Annexure P-1) and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners on the basis of the aforesaid compromise.

13. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Judicial Magistrate.

. (MANISHA BATRA)

03.04.2024
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JUDGE

Whether speaking/reasoned: Yes/No.
Whether reportable : Yes/No