



CRM-M-12605-2022

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-12605-2022
Date of Decision: 18.05.2024

SANDEEP KAUR @ REEPAL KAUR @ RIMPAL KAUR & ANOTHER

... Petitioners

Versus

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.S. Jagpal, Advocate
for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

Mr. Gurcharan Singh Bains, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.107 dated 10.09.2018 (Annexure P-2) registered under Section 306 IPC, 1860 (Section 34 IPC added later on) at Police Station Koom Kalan, District Ludhiana as well as all consequent proceedings arising therefrom.

2. The brief facts of the case are that the complainant/respondent No.2-Baldev Singh got registered a G.D. No.024 dated 09.09.2018 (Annexure P-1) stating that he had received a phone call from his son Gurmail Singh who seemed to be very upset. His son told him (complainant) that he did not want to live anymore. Thereafter, he (complainant) along with

**CRM-M-12605-2022**

-2-

Sukhdeep Singh went to search for his son and found his scooter parked near the river and his slippers were also lying on the side. He suspected that his son had jumped into the river on account of being upset. However, he did not suspect anyone. The copy of the G.D. No.024 dated 09.09.2018 is attached as Annexure P-1 to the petition.

3. The present FIR No.107 dated 10.09.2018 came to be registered on 10.09.2018 at the instance of complainant/respondent No.2-Baldev Singh with the allegations that his deceased son Gurmail Singh had solemnized a second marriage with petitioner No.1-Sandeep Kaur @ Reepal Kaur @ Rimpak Kaur in 2011 and a grandson Gurshan Singh was born of the said marriage. On 08.09.2018, he (complainant) had received a telephone call on his mobile from the mobile number of the deceased and the deceased had told him that he (deceased) was very upset and his image had been stigmatized and did not wish to live anymore. His (deceased's) son was to be kept by him (complainant) and was not to be handed over to his (deceased's) wife Sandeep Kaur @ Reepal Kaur @ Rimpak Kaur. A search had been conducted for Gurmail Singh and his dead body was discovered in Village Satiala near the Satluj River. His son committed suicide by jumping into the river on being harassed by petitioner No.1-Sandeep Kaur @ Reepal Kaur @ Rimpak Kaur. The copy of the FIR No.107 dated 10.09.2018 is attached as Annexure P-2 to the petition.

4. During the course of investigation, the statement of Rajinder Singh son of Baldev Singh (complainant) and the supplementary statement of

**CRM-M-12605-2022****-3-**

the complainant himself were recorded as per which they had been informed by Gurmail Singh that he had seen his wife in an objectionable position with Ashwani Kumar @ Harshi @ Ashu (petitioner No.2) and they were in an illicit relationship with each other. On being disturbed because of the said illicit relationship, the deceased had committed suicide. The copies of the statements of Rajinder Singh and Baldev Singh are attached as Annexures P-4 and P-5.

5. Based on the investigation conducted, the report under Section 173(2) Cr.P.C. was presented against the petitioners under Sections 306 and 34 IPC. The copy of the said report is attached as Annexure P-6 to the petition.

6. The aforementioned FIR No.107 dated 10.09.2018 (Annexure P-2), the report under Section 173(2) Cr.P.C. (Annexure P-6) and all subsequent proceedings arising therefrom are under challenge in the present petition.

7. The learned counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. There was nothing on record which would constitute the commission of an offence under Section 306 IPC as the ingredients of Section 107 IPC are completely lacking. For an offence under Section 306 IPC the prosecution should have, at the very least established that the accused had an intention to aid, instigate or abet the deceased to commit suicide. Abetment involved the 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 in aiding, instigating



CRM-M-12605-2022

-4-

or abetting the deceased to commit suicide, the question of the commission of the offence did not arise. In the instant case, a reading of the FIR and the supplementary statements would at best go to show that the petitioners were in an illicit relationship with each other. By no stretch of imagination could it be held that merely being in an illicit relationship without anything more would amount to abetment if a spouse committed suicide on account of the said illicit relationship. He, therefore, contends that taking the allegations to be absolutely correct, no case under Section 306 IPC was made out and the FIR, the report under Section 173(2) Cr.P.C. and all subsequent proceedings arising therefrom were liable to be quashed. Reliance is placed on the judgments in the cases of *Amalendu Pal @ Jhantu Versus State of West Bengal, 2010(1) R.C.R. (Criminal) 643, Mahendra Singh & another Versus State of M.P., 1995 1996 Cri. L.R. (SC) 15, Pappu Khare Versus State of M.P., 2015(13) R.C.R. (Criminal) 388, State of Punjab Versus Kamaljit Kaur alias Bholi & another, 2008(2) R.C.R. (Criminal) 562, Sushil Kumar @ Sushil Yadav @ another Versus State of Haryana & another, CRM-M-41891-2023, decided on 06.05.2024* and *State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383.*

8. On the other hand, the learned State counsel alongwith the learned counsel for respondent No.2 contend that as per the prosecution case set up in the FIR and the statements under Section 161 Cr.P.C., the petitioner No.1 who was the wife of the deceased was in an illicit relationship with petitioner No.2. They had been seen in an objectionable position by the



CRM-M-12605-2022

-5-

deceased. This fact amounted to harassment of the deceased leading him to commit suicide. Therefore, as the offence was *prima facie* established, the question of quashing of the FIR and all subsequent proceedings arising therefrom did not arise and the petitioners were liable to be tried for having committed the offence in question.

9. I have heard the learned counsel for the parties.

10. Before proceeding further in the matter, it would be apposite to examine Sections 107 and 306 of the Indian Penal Code, 1860 and the same are reproduced hereinbelow:-

Section 107 IPC, 1860

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 for 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 that 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.”

Section 306, IPC, 1860

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



CRM-M-12605-2022

-6-

which may extend to ten years, and shall also be liable to fine.

11. The judgments relied upon by the learned counsel for the petitioners are discussed hereinbelow:-

In **Amalendu Pal @ Jhantu** (supra), it was held as under:-

“3. The facts necessary for the disposal of the present appeal and as presented by the prosecution may be set out at this stage. The appellant - Amalendu Pal @ Jhantu and the deceased - Dipika were married in the year 1977. Out of the said wedlock, two sons were born. The appellant was residing in Calcutta in connection with his work and earning. During his stay in Calcutta, the appellant developed an extra-marital relationship with one Jyotsna @ Anita. The relationship between the appellant and said Anita became known to the deceased and the deceased objected to such illegal relationship. The appellant sought permission of the deceased to marry said Anita, which was also refused by the deceased. Consequently, the appellant started torturing the deceased both physically and mentally.

4. After a few days, the appellant again tried to take the consent of the deceased for marrying said Anita and on refusal of the deceased, physical and mental torture was perpetrated on the deceased. It was alleged that the deceased was provoked by the appellant to end her life by consuming poison or by hanging herself. It was also the case that three months prior to the date of death of the deceased, the appellant brought said Anita to his house. Anita was sporting a vermillion mark on her forehead and was wearing conch bangles on her wrist to indicate that she is married to the accused. It was also stated that in the evening prior to the date of the death of the deceased, the



CRM-M-12605-2022

-7-

deceased was assaulted by Anita, the appellant and his family members. On the morning of 27.09.1991, the deceased was found hanging from the ceiling of the house of the appellant.

**** **** ****

*13. The legal position as regards Sections [306](#) Indian Penal Code which is long settled was recently reiterated by this Court in the case of *Randhir Singh v. State of Punjab*, 2004(4) RCR (Criminal) 740 : 2004(3) Apex Criminal 683 : (2004)13 SCC 129 as follows in paras 12 and 13 :*

"12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section [306](#) Indian Penal Code.

*13. In *State of W.B. v. Orilal Jaiswal* this Court has observed that the courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be*



CRM-M-12605-2022

-8-

satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

14. Further in the case of *Kishori Lal v. State of M.P.*, 2007(3) RCR (Criminal) 385 : 2007(3) RAJ 613 : (2007)10 SCC 797, this Court gave a clear exposition of Section [107](#) Indian Penal Code when it observed as follows in para 6:

"6. Section [107](#) Indian Penal Code defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in Indian Penal Code. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. "Abetted" in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence."

[See also Kishangiri Mangalgiri Swami v. State of Gujarat, 2009(1) RCR (Criminal) 947 : 2009(1) RAJ 675 : (2009)4 SCC 52]

15. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under



Section [306](#) Indian Penal Code, the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without their being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section [306](#) Indian Penal Code is not sustainable.

**** **** ****

23. In support of the aforesaid contention, learned counsel for the prosecution relied upon Explanation 2 to Section 107. He submitted that prior to the commission of suicide by the deceased, the appellant had, by bringing said Anita as his second wife to his house facilitated the commission of suicide by the deceased and thus, the appellant intentionally aided the commission of suicide by the deceased. The evidence on record, however, does not support such a case. It is pertinent to note that the appellant had brought Anita to stay with him at his house three months prior to the date of the death of the deceased. If the deceased had been so perturbed by the act of the appellant in marrying the said Anita and in bringing her to his house that she felt impelled to commit suicide then she could have done so on the very day when Anita had come to stay with the appellant in his house as naturally at that point of time her annoyance or dismay with life would have been at its pinnacle. From the period of three months which elapsed in between the incidents of the appellant bringing



CRM-M-12605-2022

-10-

Anita to his house and the deceased committing suicide, it can be clearly inferred that it was not the act of the appellant which instigated or provoked the deceased to commit suicide.

24. The perpetration of physical torture on the deceased on the day prior to the date of the incident which led the deceased to commit suicide is the prosecution case all throughout. It is nowhere the case of the prosecution that the appellant had played any active role either in instigating or aiding the commission of suicide by the deceased for denying to accept Anita as the wife of the appellant. Anita, the second wife of the appellant was brought by the appellant to his house about three months prior to the date of the incident of suicide by the deceased and therefore, bringing of the second wife to the house by the appellant cannot be said to have either incited or facilitated the commission of suicide by the deceased. It is also not the case of the prosecution as disclosed from the evidence led which we have scrutinised very minutely. The aforesaid contention, in our considered opinion, is far fetched and is not established by the facts of the present case. After carefully assessing the evidence on record we find that there is no direct evidence to show that the appellant had by his acts instigated or provoked the deceased to commit suicide and has not done any act which could be said to have facilitated the commission of suicide by the deceased.”

(emphasis supplied)

In **Mahendra Singh** (supra), it was held as under:-

“Mrs. Sujata V. Manohar, J.- Criminal Appeal No. 743 of 1989 is filed by Mahendra Singh, the husband and his mother Radhabai the mother-in-law of the deceased Khema Bai. The appellant in Criminal Appeal No. 402 of 1989 is



Gayatri Bai the sister-in-law of the husband of the deceased Khemabai. These three appellants stand convicted under Section [306](#) Indian Penal Code whereunder they have been sentenced to three years' R.I. each. In so far as the appellants in Criminal Appeal No. 743 of 1989 are concerned, they have undergone the sentence imposed on them : Sentence of the appellant in Criminal Appeal No. 402 of 1989 stands suspended under orders of this Court after the appellant has undergone sentence barely of about ten days. The charge under Section [306](#) Indian Penal Code is basically based on the dying declaration of the deceased which when translated reads as follows :-

"My mother-in-law and husband and sister-in-law (husband)" elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning."

Learned counsel for the appellant rightly submitted that but for the statement of the deceased there is no other pointed evidence from which it could be inferred that there was any abetment so as to bring the acts of the appellants within Section [306](#) Indian Penal Code, under which the appellants have been punished. The dying declaration, per se , could not involve the appellants in offence punishable under Section [306](#) Indian Penal Code, because it provides for abetment of suicide. Whoever abets the commission of suicide, and if any person commits suicide due to that reason, he shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Abetment has been defined in Section [107](#) Indian Penal Code to mean that a person abets



CRM-M-12605-2022

-12-

the doing of a thing who firstly instigates any person to do a thing, or secondly, engages with one or more other person or persons in any conspiracy for 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 that thing, or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing. Neither of the ingredients of abetment are attracted on the statement of the deceased. The conviction of the appellants under Section [306](#) Indian Penal Code merely on the allegation of harassment to the deceased is not sustainable. The appellants deserve to be acquitted of the charge.

2. It was, however, brought to our notice by learned counsel for the State that since the occurrence took place on 14-3-1984, Section [498A](#) Indian Penal Code had priorly on 25-12-1983 been brought on the statute book and that the appellant could well have been charged under the said provision which may now be applied in substitution. That appears to be so. But at this distance of time, we think it would be imprudent to substitute the charge and cull out incidence of cruelty inflicted on the deceased by the husband or relatives of the husband and determine whether any wilful conduct is attributed to the appellants which would likely to drive the deceased to commit suicide or to cause grave injury to her (whether physically or mentally). Prejudice would, in our view, be writ large if we involve the appellants under Section [498A](#) Indian Penal Code in substitution. Even otherwise, substantial justice has been done when the husband and his mother; appellants in Criminal Appeal No. 743 of 1989 have undergone the sentence imposed on them. Their appeal would stand disposed of as infructuous. The sister-in-law also has



CRM-M-12605-2022

-13-

undergone some sentence; though not much. The appeal of the sister-in-law would therefore, stand allowed and she is acquitted of the charge. She is on bail. The bail bonds stands cancelled.

Order accordingly.”

(emphasis supplied)

In **Pappu Khare** (supra), it was held as under:-

“2. The prosecution case, in short, is that on 02.01.2012 at 22:45 o'clock Dr. D.R. Sagar Civil Hospital Dabra informed at Police Station Dabra that a woman named Bhagwati Valmik has been brought in the hospital in dead condition. On this information, a Merg No. 3/2012 was registered. During Merg enquiry, it was found that deceased-Bhagwati has died because the petitioner was having illicit relation with wife of Prakash Valmeek of Badoonkala. Because of this reason petitioner used to beat and harassed the deceased-Bhagwati. Six months before the death of the deceased the petitioner beat the deceased by means of lathi by which hand of the deceased got fractured. Thereafter the petitioner demanded L One Lac, on refusal the petitioner told to kill the deceased. Because of all these reasons the deceased committed suicide by hanging herself. Thereafter, offence under Section 306 of the Code has been registered against the petitioner and after investigation charge-sheet has been filed. After receiving the case on committal, Trial Court framed the charges against the petitioner under Section 306 of the Penal Code.

3. Learned counsel appearing for the petitioner vehemently submitted that the ingredients of the offence under Section 306 of the Code are not fulfilled and no iota of evidence is available on record to implicate the petitioner. He



CRM-M-12605-2022

-14-

further submitted that learned Trial Court has erred in law in framing charge against the petitioner for the offence punishable under Section [306](#) of the Code while no material evidence available on record to prove the fact that the petitioner has abated or instigated the deceased to commit suicide. To Bolster his submissions counsel relied on the judgment of Hariom v. State of MP reported in 2007 (1) MPLJ 195, Santosh Vishwakarma and another v. State of MP (Now CG) reported in 2004 (3) MPHT 57 (CG), State of M.P. v. Ganesh Ram reported in 1997 (II) MPJR 163, Dayalan Babu & another v. State reported in 2011 CriLJ 359, Mahendra Singh and another v. State of M.P. reported in 1995 AIR SCW 4570, Bhagwan Das v. Kartar Singh and others reported in AIR 2007 Supreme Court 2045, S.S. Chheena v. Vijay Kumar Mahajan and another reported in (2010) 12 SCC 190 and M. Mohan v. State reported in AIR 2011 Supreme Court 1238.

4. Learned PP for the respondent/State has fully supported the impugned order passed by the Lower Court and submitted that there is prima facie evidence available on record against the petitioner for framing the charges under Section [306](#) of the Code. He further submit that Smt. Geetabai, Anand Kumar and Mohan are respectively mother and brothers of the deceased have categorically stated in their statement that the deceased was depressed and disappointed as petitioner was having illicit relation with one Meena. Hence, learned PP prayed for dismissal the petition.

**** **** ****

6. As Section [306](#) of I.P.C. makes abetment of commission of suicide punishable, therefore, making liable for an offence punishable under Section [306](#) of I.P.C., it is the duty of prosecution to establish that such person has abated the



CRM-M-12605-2022

-15-

commission of suicide and for the purpose of determining the act of the accused, it is necessary to see that his act must fall within the purview in any of the three categories as enumerated under Section [107](#) of the Code and, therefore, it is necessary to prove that the said accused has instigated the person to commit suicide.

7. When I considered the facts of the present case in the light of the above Principal of law, it becomes candidly clear that there is no abetment and instigation caused by the petitioner to drove her to commit suicide. Although witness stated that petitioner having illicit relation with another woman meena and even on objecting did not stop these relation due to which the deceased was depressed. After that deceased committed suicide but that not amounts to abetment or instigation within the purview of Section [107](#) of I.P.C.

8. Our High Court and Hon'ble Supreme Court has considered the scope of Sections [107](#) and [306](#) of the Code in many cases. In Sanju v. State of M.P., (2002) 5 SCC 371 the Hon'ble Apex Court in paragraphs 9 to 12 observed as under :-

"Para 9. In Swamy Prahaladdas v. State of M.P. And another, 1995 Supp (3) SCC 438, the appellant was charged for an offence under Section [306](#) of I.P.C. on the ground that the appellant during the quarrel is said to have remarked the deceased "to go and die". This Court was of the view that mere words uttered the accused to the deceased "to go and die" were not even prima facie enough to instigate the deceased to commit suicide.

10. In Mahendra Singh v. State of M.P., 1995 Supp (3) SCC 731, the appellant was charged for an offence under Section [306](#) of I.P.C. basically based upon the dying declaration of the deceased, which reads as under :-



My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of those reasons and being harassed I want to die by burning.

11. This Court, considering the definition of 'abetment' under Section [107](#), of the Code, found that the charge and conviction of the appellant for an offence under Section [306](#) is not sustainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of abetment are attracted on the statement of the deceased.

12. In *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618, this Court while considering the charge framed and the conviction for an offence under Section [306](#) of the Code on the basis of dying declaration recorded by an Executive Magistrate, which she had stated that previously there had been quarrel between he deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set fire. Acquitting the accused this Court said :-

A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged and such petulance discord the difference were not expected to induce a similarly circumstanced



CRM-M-12605-2022

-17-

individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty."

**** **** ****

12. However in my opinion mere harassment of wife by husband due to differences per se does not attract Section [306](#) read with section [107](#) of the Code, if the wife commit suicide.

13. In the present case also evidence collected by the prosecution indicates that there is no overt act fall within the purview of Sections [107](#) and [109](#) of the Code and therefore, prima facie no offence punishable under Section [306](#) of the Code is made out against the petitioner. For the forgoing reasons, I am of the opinion that the impugned order framing charge under Section [306](#) of the Code of the petitioner/accused deserves to be set aside.

14. In the facts and circumstances of the case, for the forgoing reasons, I am of the considered opinion that impugned order framing charge against the petitioner under Section [306](#) of the Code is hereby set aside. The petitioner is discharged from the charge of offence punishable under Section [306](#) of the Code.

(emphasis supplied)

In **State of Punjab** (supra), it was held as under:-

"Kanwaljit Singh Ahluwalia, J. - The present revision petition is directed by the State against the discharge of Kamaljit Kaur alias Bholi and Surinder Kumar alias Kala, accused. They were facing trial in case FIR No. 108 dated 31.12.1994 registered at Police Station Nawanshahr under Section [306](#) Indian Penal Code. It is stated that Paramjit



CRM-M-12605-2022

-18-

Singh son of Darshan Singh Hira and his son Amritpal alias Lovely committed suicide and left a suicide note to the effect that his wife Kamaljit Kaur alias Bholi is a woman of bad character. He is fed up with her. Therefore, he along with his son Lovely Amritpal Singh is committing suicide. It is further stated that his wife has illicit relations with three persons namely, Palli of Commando Force, Ludhiana, Kala residing opposite to their house and Ujjal Singh, her real uncle. In the suicide note, he has expressed that in these black days, such bad women are living in the Society. It is further stated that his wife Bholi is a lady of loose character. It is further stated that since Palli has come as a tenant in the house, Bholi has become lady of loose character. It is further stated that Kala had noticed Bholi in objectionable manner with Kala. He wanted in suicide note that if law contemplates action against wedded woman, the law should take its course.

2. On 27.8.1994 at 3.00 P.M. dead bodies of young unknown person aged about 30 years and a child aged about 5-6 years were found near the maize field. These dead bodies were of Paramjit Singh and his son Amritpal alias Lovely. Post-mortem was conducted. Visceras were sent to the Chemical Examiner. The Chemical Examiner found the cause of death to be Aluminum Phosphide. Suicide note was found from the pocket of Paramjit Singh. After completion of investigation, challan was submitted against Kamaljit Kaur alias Bholi and Surinder Kumar alias Kala. The name of Ujjal Singh was placed in column No. 2. Learned Sessions Judge, Jalandhar, while discharging the respondents had observed as under :-

"It cannot be disputed that charge can be framed merely on strong suspicion and the evidence at the time of



framing charge is not be considered meticulously. But I am of the considered opinion that the circumstances of the case are such as, possibly, it cannot be stated that a prima facie case is made out against the accused within the meaning of Section 306 of the Code. Abetment of suicide is punishable under section 306 of the Code. Section 107 of the Code defines abetment as under :-

"107. 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 for 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 that thing; or Thirdly, intentionally side, by any act or illegal omission, the doing of that thing.

Explanation I. - A person who, by willful misrepresentation, or by willful 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".

Thus, abetment can be either by instigation or by intentional aid or by illegal omission of doing a thing. So far as the death of child is concerned it has to be assumed that Paramjit Singh, his father, had killed him by administering aluminum phosphide. There is nothing to show if any of the accused was present at the time of commission of suicide. For arguments sake, if it may be taken that the wife is a woman of easy virtue, even then, it cannot be stated if she had instigated or had aided the commission of suicide. The learned P.P. For the State has not been able to satisfy as to in which manner the



commission of suicide has been instigated or aided by the accused. The husband might be feeling harassed or mentally disturbed with the alleged illicit relations of his wife but harassment and the mental disturbance do not constitute the offence of abetment. It looks that the deceased-husband was unable to control his wife and he out of frustration has not only committed suicide but has also snuffed the life of his son. The authority Charabhushan Bhimraj Bhushanwar and others (supra) is hardly of any help to the prosecution. I am of the firm view that from the facts of the case no prima facie case is made out against the accused. Though no direct authority is available pertaining to such like facts yet with advantage reference can be made to Shri Ram v. the State of U.P., AIR 1975 Supreme Court 175; Balbir Singh v. The State of Punjab, 1987(1) Crimes 76; Wazir Chand and another v. The State of Haryana, 1989(1) RCR (Criminal) 109 : 1989(1) Crimes 173; State of Haryana v. Babu Ram & Anr., 1991(3) RCR (Criminal) 392 : 1992(1) Criminal Courts Judgments 68 and Deepak v. State of M.P., 1994 CrL.L.J. 767.

*** ***** *****

4. The conduct of wife of the deceased though may be conduct of bad wife but was not for the purpose to incite the deceased to commit suicide.

It was held by a Division Bench of this Court in Raj Kumar v. State of Punjab, 1983(1) C.L.R. 660 as under :-

"12. Expression 'instigate' in the Concise Oxford Dictionary is defined as 'urge on incite, bring about by persuasion and in Webster, it has been defined as 'urge forward, provoke with synonyms of stimulate, urge, spur, provide tempt, incite, impel, encourage, animate. The



CRM-M-12605-2022

-21-

word 'instigate' in common parlance would mean to go, to urge forward or to provoke, incite or encourage to do an act".

5. Every husband or wife may not be living a life of virtue. The conduct of any spouse, if is not upto the expectations of other spouse, and result into commission of suicide by another, abetment of suicide cannot be imputed to the other spouse.

6. Suspicion by one spouse regarding moral character of another if lead to commission of offence of suicide to say that other is guilty of abetment will be of far reaching consequences. In the present case, occurrence had taken place in the year 1994. After 13 years in a revisional Court, findings of learned lower Court cannot be set aside as same suffers from no infirmity. Finding no merit in the present revision petition, the same is dismissed.

(emphasis supplied)

In **Sushil Kumar @ Sushil Yadav** (supra), it was held as under:-

"13. A perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide inasmuch as the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide. To constitute abetment, the intention and involvement of an accused to aid or instigate the commission of suicide is imperative. There must be a positive act on the part of an accused to aid or instigate the deceased to commit suicide. Further, merely being named in a suicide would not by itself establish the



culpability of an accused until the ingredients of an offence are made out.

14. Further, while dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment. If the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to take the extreme step of committing suicide, then the Court would do well in not quashing proceedings. On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive nature or other contributing factors then the Court must not hesitate in quashing the proceedings.

15. As regards the principles governing quashing of an FIR, the Hon'ble Supreme Court in the case of State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383, has held as under:-

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and



CRM-M-12605-2022

-23-

sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section [156](#) (1) of the Code except under an order of a Magistrate within the purview of Section [155](#)(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section [155](#)(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to



CRM-M-12605-2022

-24-

the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

(emphasis supplied)

17. Coming back to the facts of the present case, a perusal of the FIR, the statements under Section 161 Cr.P.C. and the suicide note do not disclose any specific incidents of acute harassment which was likely to drive the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioners to aid or instigate the deceased for committing suicide. From the allegations and the from the record it has not been established that the petitioners intended to push the deceased to such a situation that he would ultimately commit suicide. At the very best what could be said is that the deceased was pressurized to return the loan amount received by him from the petitioners and nothing more. Therefore, apparently a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his hypersensitive nature. Furthermore, where a person succumbs to the pressure of his debt and the creditor is taken as an abettor to his suicide simplicitor, the legitimate interest of a person asking for his own money in a reasonable manner would be harmed in every such case.



CRM-M-12605-2022

-25-

18. Keeping in view the aforementioned principles in mind and on an examination of the FIR and the report under Section 173(2) Cr.P.C. and 173(8) Cr.P.C. the uncontroverted allegations levelled in the FIR and the evidence collected in support of the same clearly do not disclose the commission of any offence by the petitioners.

19. In view of the above, I find considerable merit in the present petition. Therefore, the FIR No.0166 dated 20.04.2022 registered under Sections 306 and 34 IPC, 1860 at Police Station City Rewari @ Rewari, District Rewari, Haryana, the report under Section 173 Cr.P.C. dated 04.03.2023 (Annexure P-5), the supplementary report under Section 173 Cr.P.C. dated 13.07.2023 (Annexure P-4) and all subsequent proceedings arising therefrom stand quashed.”

(emphasis supplied)

12. A perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide inasmuch as the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide. To constitute abetment, the intention and involvement of an accused to aid or instigate the commission of suicide is imperative. There must be a positive act on the part of an accused to aid or instigate the deceased to commit suicide. Feeling upset or harassed on account of the illicit relations of a spouse and thereby committing suicide, in the absence of any positive act on the part of such spouse would not constitute abetment.



CRM-M-12605-2022

-26-

13. While dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment. If the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to take the extreme step of committing suicide, then the Court would do well in not quashing proceedings. On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive nature or other contributing factors then the Court must not hesitate in quashing the proceedings.

14. As regards the principles governing quashing of an FIR, the Hon'ble Supreme Court in the case of **State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383**, has held as under:-

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid



formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section [156](#) (1) of the Code except under an order of a Magistrate within the purview of Section [155](#)(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section [155](#)(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings



CRM-M-12605-2022

-28-

and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

(emphasis supplied)

15. Coming back to the facts of the present case, a perusal of the FIR and the statements under Section 161 Cr.P.C. do not disclose any specific incidents of acute harassment which was likely to drive the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioners to aid or instigate the deceased for committing suicide. From the allegations and from the record it has not been established that the petitioners intended to push the deceased to such a situation that he would ultimately commit suicide. At the very best what could be said is that the petitioners were involved in an illicit relationship with each other which caused disturbance in the mind of the deceased. Therefore, apparently, a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his hypersensitive nature.

16. Keeping in view the aforementioned principles in mind and on an examination of the FIR and the report under Section 173(2) Cr.P.C. the uncontroverted allegations levelled in the FIR and the evidence collected in

**CRM-M-12605-2022****-29-**

support of the same clearly do not disclose the commission of any offence by the petitioners.

17. In view of the above, I find considerable merit in the present petition. Therefore, the FIR No.107 dated 10.09.2018 registered under Section 306 IPC, 1860 (Section 34 IPC added later on) at Police Station Koom Kalan, District Ludhiana, the report under Section 173(2) Cr.P.C. dated 12.12.2018 (Annexure P-6) and all subsequent proceedings arising therefrom stand quashed.

(JASJIT SINGH BEDI)
JUDGE

18.05.2024

JITESH

Whether speaking/reasoned:- Yes/No**Whether reportable:- Yes/No**