

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.

CRM-M-18934-2009
2024:PHHC: 044209

RITU BALA

. . . . Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

. . . . Respondents

II.

CRM-M-20439-2009
2024:PHHC: 044211

VIJAY PAL AND OTHERS

. . . . Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

. . . . Respondents

III.

CRM-M-28757-2009
2024:PHHC: 044214

JAGDISH LAL AND OTHERS

. . . . Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

. . . . Respondents

IV.

CRM-M-28857-2009
2024:PHHC: 044215

DAVID MASIH AND OTHERS

. . . . Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

. . . . Respondents

Reserved on: 22.03.2024
Pronounced on : 02.04.2024

CORAM: HON’BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Mandeep S. Sachdev, Advocate, for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

None for respondent No.2(i) and (ii).

DEEPAK GUPTA, J.

This order shall dispose of four petitions titled above, all filed under Section 482 CrPC, in which petitioners pray for quashing of FIR No.46 dated 11.05.2008 under Section 306/34 IPC registered at Police Station GRP Jalandhar and all the consequent proceedings arising therefrom.

2. **FIR** (*copy Annexure P/1 in CRM-M-18934-2009*) was lodged on the statement of Paramjit Kaur (*respondent N: 2 herein*) wife of Balkar Chand, resident of VPO Dogri Tehsil and District Jalandhar, whose daughter Aruna Rani had committed suicide on 21.04.2008. It will be relevant to reproduce the statement of Paramjit Kaur, which is the basis of FIR. It reads as under:

“States that I am 47 years of age and I am resident of above mentioned address. I have two sons namely Satish Kumar and Ajay Kumar and one daughter namely Aruna Rani (deceased). On 9.2.2008 my daughter namely Aruna Rani got married with Rohit Kumar son of Vijay Kumar resident of Village Buich Bajja District Hoshiarpur as per Christian rites and my son namely Satish Kumar also got married on 9.1.2008 with Indu resident of village Jaja District Hoshiarpur. On the asking of my daughter in law namely Indu, I got my daughter Aruna Rani (deceased) married with Rohit Kumar because Indu (daughter-in-law) was known to Rohit Kumar and his family. On her faith, I got married my daughter with Rohit Kumar. After one day, my daughter told me that mental condition of Rohit Kumar was not good. His behaviour towards my daughter was not right. Moreover, her in-laws namely Vijay Kumar and mother-in-law Reena and sister-in-law Ritu are also harassing her for having brought inadequate gold in dowry. Therefore, my daughter decided not to reside with Rohit Kumar and on 12.2.2008, Vijay Kumar, Reena and Ritu left my daughter Aruna Rani at my home. Even since Indu started taunting Aruna Rani i.e. deceased that she did not know how to reside in the matrimonial house and further she started fighting with my daughter because Indu and her parents were having good relation with my daughter-in-law. Therefore, Indu started taking their favour. On 8.3.2008 marriage between Aruna Rani and Rohit Kumar was dissolved by way of a Panchayati compromise. I was not happy with all this because my daughter in law and her family members have connived with the family of my daughter in law.

They executed this divorce. Thereafter, even on phone my daughter in law Indu used to fight with my daughter Aruna Rani i.e. deceased and further she used to taunt her. When Aruna Rani got divorce, then Indu also refused to come back from her parent's house. Indu parents gave full support to her and even complaint was moved against us in Police Station Tanda and they pressurized us that my Satish Kumar and their daughter Indu should divorce each other and they can file a dowry case against us. Due to their pressure, respectable person of both the parties sat and thereafter it was decided that all the dowry articles of Indu will be taken back by her father Jagdish Lal. My daughter Aruna Rani in-laws family members gave full support. Due to all these things, my daughter Aruna Rani was not happy and she was not happy from the family of Indu as both the families have disturbed my daughter's life and on 21.4.2008 Aruna Rani committed suicide on Alwalpur-Suchi Pind rail track. On 23.4.2008 when my sister in-law Smt. Shailender Kaur wife of Surjit Ram resident of Dogri and Satish Kumar were setting care of the house hold things, then my sister-in-law found a piece of note from the clothes of Aruna Rani, which was kept in Almirah, in which it was written by the deceased Aruna Rani that her life has been ruined by Ritu, Vijay Kumar and Indu (Babli), Jagdish, Ricky, Ritu and David and my daughter has committed suicide as the said people has harassed and disturbed my daughter mentally as the above said persons have incited my daughter to commit suicide. I have seen handwriting of my daughter. Said suicide note has been written by my daughter and even she signed the said note. Therefore, kindly legal action should be taken against the said people.”

3. The **suicide note** (*copy Annexure P/3 in CRM-M-18934-2009*) is as under:

“It is kindly requested that I got married on 9th February at Village Biachan District Hoshiarpur. I was married with a mental. Whatever has happened with me, Indu Bala resident of village Jajja is responsible for all these things. Even my brother has given divorce to her. What happened to me it has been done with the thinking of her family members. These people in connivance with each other alongwith people of Baich Bajja has ruined my life. I have decided to kill myself. My family has no fault, therefore they are not liable for my death. Therefore, after my death, my family should be given justice. Responsible are resident of village Baichan namely – Rohit, Ritu Bala, Vijay Kumar and village in Jajja – Indu, Babli, Jagdish, Nittu, Vicky and information should be taken from the other persons.

Sd/- (Aruna Rani)”

4. Ritu Bala (*petitioner in CRM-M-18934-2009*) is the sister-in-law (*nanand*) of deceased Aruna Rani. Vijay Pal, Reena Devi and Rohit (*Petitioners in CRM-M-20439-2009*) are parents-in-law and the husband of the deceased, respectively. Jagdish Lal, Babli Devi, Indu Bala, Ricky @ Rakesh and Vicky @ Sunil Kumar (*petitioners in CRM-M-28757-2009*) are the family members of paternal family of Indu Bala i.e. *Nanand* of deceased. David Masih and Balwinder Kaur @ Neetu (*petitioners in CRM-M-28857-2009*) are two other persons seeking quashing of the FIR.

5. This Court had initially stayed the presentation of the challan vide order dated 03.12.2009. Said order was later on modified on 22.4.2010 to the effect that it will be open for the prosecution agency to complete the investigation and form an opinion, as to whether petitioners were to be challaned or not; and that in case, prosecution agency opted to present the charge, the trial Court will not frame the charge till the next date of hearing. The interim order was continued from time to time.

6.1 The status report as filed by the respondent-State would reveal that during investigation being conducted by SI Dharminder, SHO GRP, Jalandhar, Vijay Pal (*one of the petitioners*), the father of Rohit, divorced husband of deceased Aruna Rani had moved an application to IG GRP, Patiala, which was marked to Superintendent of Police GRP, Jalandhar. Said Superintendent of Police GRP, Jalandhar conducted the inquiry in the matter and found all the accused to be innocent. In the final report under Section 173 CrPC (Annexure P7), there is reference of that inquiry report, as per which, it was found that deceased Aruna Rani loved Rakesh Kumar @ Ricky and wanted to get married with him. However, her

parents solemnized her marriage with Rohit. Aruna Rani stayed at the place of her in-laws only for two days and then returned back to the village of her parents at Dhogri and refused to go back to the house of her in-laws. With the mutual consent, marriage of Rohit and Aruna Rani was dissolved by a Panchayati divorce. After the divorce, parents of Aruna used to stop her from meeting Rakesh Kumar @ Ricky. Said Rakesh @ Ricky also cheated her, as he refused to perform marriage with Aruna Rani. Due to this reason, she went into depression and near the village of her lover, committed suicide by coming before a vehicle. It was concluded in the inquiry that there was no role of Jagdish Lal and his family; or Vijay Kumar and his family in the suicide of Aruna Rani.

6.2 Status report reveals further that said inquiry report recommending the cancellation of the case was approved by IGP GRP, Patiala and the same was prepared accordingly. However, in the meantime, Paramjit Kaur-complainant moved an application to ADGP GRP, Jalandhar, who did not approve the cancellation report. Legal opinion of the District Attorney, Jalandhar was sought, who opined that since the names of the accused had been mentioned in the suicide note, so it was not a fit case for cancellation of the FIR and further opined to present the challan in the Court. Besides, the FSL report confirmed that suicide note was in the handwriting of deceased-Aruna Rani. Based upon the opinion of the District Attorney, Jalandhar and the suicide note, final report under Section 173 Cr.PC was prepared against the accused (petitioners herein) to face prosecution under Section 306/34 IPC.

7.1 It is contended by Id. counsel appearing for all the petitioners that ingredients of Section 306 to be read with Section 107 IPC are completely missing to make out a case for abetment of suicide. Attention is drawn towards the fact that

after the marriage of Aruna Rani with Rohit on 09.02.2008, she stayed in the house of her in-laws only for two days and came to the parental home on 12.02.2008 on the pretext that she had been married to a mental person. Thereafter, marriage was dissolved by way of Panchayati compromise on 08.03.2008 and that it is on 21.04.2008 i.e. after 1 month and 13 days from the divorce that Aruna Rani committed suicide on Alwalpur-Suchi Pind rail track.

7.2 Ld. counsel points out that FIR was lodged after much delay on 11.05.2008 by implicating as many as 11 persons, who are not only the family members of the divorced husband of the deceased but also the family members of Indu, the sister-in-law of the deceased, who was the mediator in the marriage of deceased with Rohit. Attention is also drawn towards the suicide note (Annexure P3) to contend that there was no allegation of demand of dowry.

7.3 Ld. counsel contends that there is no allegation, whatsoever of the harassment of deceased Aruna Rani either in relation to demand of dowry or in any other respect. Attention is also drawn towards the inquiry conducted by the SP GRP, Jalandhar, who found all the accused-petitioners to be innocent.

With these submissions, prayer is made for quashing of the FIR and all consequent proceedings arising therefrom.

8. Refuting the aforesaid contentions, ld. State contends that petitioners have been specifically named in the FIR and the suicide note of the deceased, to be responsible for taking the extreme step by the deceased, to commit suicide. Ld. State counsel also contends that suicide note has been found to be in handwriting of the deceased and that after concluding the investigation even the final report under Section 173 CrPC has been prepared and therefore, they should be put to trial, as it

will be a matter of evidence as to whether the necessary ingredients of Section 306 IPC are proved or not and as to whether the circumstances created by the petitioners were responsible for taking of the extreme step by the deceased to commit suicide and that looking into the entirety of circumstances, the FIR is not liable to be quashed. He prayed for dismissal of all the petitions.

9. I have considered submissions of both the sides and have appraised the record.

10. Sections 306 and 107 of the Indian Penal Code are the relevant provisions to be noticed. These are extracted as under: -

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

“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 an act or illegal omission, the going of that thing.

Explanation 1. - 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.

Explanation 2. - Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

11. Hon'ble Supreme Court while dealing with Sections 306 and 107 of the Indian Penal Code in **Ganguly Mohan Reddy Vs. State of Andhra Pradesh, 2010**

(2) Cri. L.J. 2110 has held as under: -

“1. In order to convict a person under Section 306 Indian Penal Code, 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.

2. **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.

3. There should be **intention to provoke, incite or encourage the doing of an act** by the latter - Each person's suicidability pattern is different from the others - Each person has his own idea of self-esteem and self-respect - Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases - Each case has to be decided on the basis of its own facts and circumstances. 2009(4) RCR (Crl.) 196 (SC) relied.”

Same view has been taken in **M. Mohan Vs. State Tr. Dy. Supdt. of Police, 2010 (2) Cri.L.J. 2110 (SC)**; and **The State of Punjab Vs. Jaibinder Devi's cases, 2011 (1) Criminal Court Cases 660 (P&H)**

12. In **S.S. Chheena Versus Vijay Kumar Mahajan, 2010 (4) RCR (Criminal) 66**, Hon'ble Supreme Court observed as under: -

“16. In order to properly comprehend the scope and ambit of Section 306 Indian Penal Code, it is important to carefully examine the basic ingredients of Section 306 Indian Penal Code.

17. The word “suicide” in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.”

13. In **State of West Bengal v. Orilal Jaiswal, 1994(3) R.C.R. (Criminal) 186: (1994) 1 SCC 73**, Hon'ble Supreme Court has cautioned 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 appears 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 satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

14. Hon'ble Supreme Court in **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) 2009(4) R.C.R. (Criminal) 196** dealt with the dictionary meaning of the words "instigation" and "goading" and opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self- esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

15. Similar view was expressed by Hon'ble Apex Court in **Amalendu Pal alias Jhantu Versus State of West Bengal, 2010 (1) RCR (Criminal) 643**. It was further observed in this case, as under: -

"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.

16. In order to bring a case within the purview of Section 306 of Indian Penal Code 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 instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 Indian Penal Code.”

16. In *Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618]*, a three- Judge Bench of Hon’ble Supreme Court had an occasion to deal with the case of a dispute between the husband and wife. The appellant husband uttered "*you are free to do whatever you wish and go wherever you like*". Thereafter, the wife of the appellant Ramesh Kumar committed suicide. After examining different shades of the meaning of "instigation", it was held as under:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out.

The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.

17. From the intention of the legislature and the ratio of the various cases decided by Hon’ble Supreme Court, it is clear that in order to make out a case 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 leads 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/she committed suicide. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing.

18. At the same time, it is important to notice that in all the cases as referred above, the scope of Section 306 IPC to be read with Section 107 IPC has been explained by Hon'ble Supreme Court, after completion of the trial. Necessary pre-conditions to make out the offence have been laid down as to in what circumstances the conviction should be recorded, if those pre-conditions are fulfilled. However, in the present case, petitioners are seeking the quashing of the FIR itself under Section 482 Cr.P.C.

19. In "*Mahendra K C v. The State of Karnataka & Anr*",(2022) 2 SCC 129, the Karnataka High Court had quashed a complaint and proceedings connected therewith under Section 306 read with Section 34 IPC, by exercising its power under Section 482 Cr.P.C. The brother of the deceased, who was the complainant of the case as well as the State of Karnataka approached Hon'ble Supreme Court against the order of the High Court. The Hon'ble Supreme Court while drawing the distinction between the petition for quashing under Section 482 Cr.P.C. and the criminal trial or an appeal against conviction on a charge under Section 306 of IPC, observed as under:-

"16. On reading the judgment of the Single Judge, it would appear that the Single Judge has failed to notice the distinction between a petition for quashing Under Section 482 (which was being considered) and a criminal trial or an appeal against a conviction on a charge Under Section 306. The Single Judge has transgressed the limits of the jurisdiction Under Section 482 of the Code of Criminal Procedure. The judgment is replete with hypothesis and surmises on the basis of which the Single Judge has reached an inference on facts. The Single Judge has tested the veracity of the

allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. At the stage when the High Court considers a petition for quashing Under Section 482 of the Code of Criminal Procedure, the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, prima facie establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of trial. The High Court in the present case has virtually proceeded to hold a trial, substituting its own perception for what it believed should or should not have been the normal course of human behavior. This is clearly impermissible.”

20. It is by keeping in view the aforesaid distinction as explained by Hon’ble Supreme Court in a petition for quashing under Section 482 Cr.P.C. and a criminal trial/appeal against conviction on a charge under Section 306 IPC that it is required to be seen, as to whether in the facts and circumstances of the present case, the FIR in question and the consequent proceedings deserve to be quashed.

21. Hon’ble Supreme Court in *Mahendra K C’s case (supra)* has referred to “*State of Odissa v, Saroj Kumar Sahoo*” (2005) 13 SCC 540, wherein it was held:-

“8. [...] While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the Section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice.”

22. Hon'ble Supreme Court in *Mahendra K C's case (supra)* further referred to the principles laid down in "*State of Haryana and others Vs. Ch. Bhajan Lal and others*" 1992 AIR 604, wherein general guidelines have been laid down as to the cases in which High Court can exercise its extraordinary power to quash the FIR under Section 482 Cr.PC. Hon'ble Supreme Court in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure under Chapter XIV and of the principles of law enunciated by the Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 CrPC, gave the following categories of cases by way of illustration, wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Hon'ble Supreme Court made it clear that 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 to myriad kinds of cases wherein such power should be exercised:

23. In *State of Haryana and others Vs. Ch. Bhajan Lal's case*, it was held as under: -

"8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given 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 guide of myriad kinds of cases wherein such power should be exercised:

"(a) 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;

(b) 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;

(c) 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;

(d) where the allegations in the FIR 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;

(e) where the allegations made in the FIR 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;

(f) 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 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;

(g) 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.”

24. In *V.P. Shrivastava v. Indian Explosives Ltd. [(2010) 10 SCC 361*, Hon’ble Supreme Court has held that when prima facie no case is made out against the accused, then the High Court ought to have exercised the jurisdiction under Section 482 CrPC and quash the complaint.

25. In *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122*, it has been held by Hon’ble Supreme Court that:

"8. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be

justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

26. Coming to the facts of present case, it is undisputed that marriage of deceased Aruna Rani with Rohit was performed on 09.02.2008. One month prior to their marriage, Satish, the brother of Aruna Rani was married to Indu on 09.01.2008, as is evident from FIR itself. It is also not in dispute that Indu, the sister-in-law (*Nanand*) of Aruna Rani was the mediator of the marriage, as she and her parental family knew the family of Rohit. However, marriage of Aruna Rani and Rohit did not last long. Aruna Rani left the matrimonial home on 12.02.2008 i.e. just 3 days after the marriage and with the consent of both the families, the marriage was dissolved by way of Panchayati compromise (*Annexure P2 in CRM-M-18934-2009*) on 08.03.2008. It has also come in the statement of Satish (*Annexure P11*) that his marriage with Indu was also dissolved by way of a divorce on 05.04.2008. It is on 21.04.2008 that Aruna Rani committed suicide on a rail track. Thus, the suicide was committed by her more than 2 months from the day, when she had left the matrimonial home and it is after another 20 days that the FIR was lodged on 11.05.2008.

27. The aforesaid facts and circumstances would clearly indicate that there was no proximate link between commission of suicide by Aruna Rani and any 'instigation or abetment or goading' on the part of any of the petitioners. Simply because the marriage of the deceased Aruna Rani with Rohit was dissolved on 08.03.2008 and thereafter, the marriage of Satish, the brother of deceased, was also

dissolved with Indu on 05.04.2008, cannot be a reason to presume that any of the petitioners abetted the commission of suicide by the deceased in any manner. There is nothing to reveal clear mens rea on the part of petitioners to commit the offence. There is nothing to show an active act or direct act of the petitioners, which act must have been intended to push the deceased into such a position that she committed suicide. The evidence collected during investigation does not reveal that any of the petitioners were in contact with the deceased Aruna Rani prior to her commission of suicide.

28. Not only above, it came during inquiry conducted by the SP, GRP, Patiala, as is duly referred in the final report under Section 173 CrPC (Annexure P7) that in fact deceased-Aruna Rani was in love with Rakesh Kumar @ Ricky with whom she wanted to get married, but her marriage was performed by her parents with Rohit and it is because of this reason that Aruna Rani stayed at the place of her in-laws just for two days and returned back and refused to go back to the place of her in-laws. After her marriage with Rohit was dissolved, she wanted to meet her lover Rakesh Kumar @ Ricky to the disliking of her parents and said Rakesh Kumar @ Ricky also ditched her due to which she came under depression and because of all these reasons that she committed suicide the near the village of her lover.

29. The report under Section 173 CrPC further reveals that the same has been prepared simply because suicide note has been found to be in the handwriting of deceased and the District Attorney gave opinion to file the challan as petitioners were named in the FIR. These two reasons in itself cannot be a ground to make out a case under Section 306 IPC, when the circumstances clearly indicate that ingredients of Section 107 IPC to be read with Section 306 IPC are completely missing.

30. Consequent to the entire discussion above, this court finds that present case squarely falls within the guideline (c) of *Bhajan Lal’s Case (supra)*. Therefore, all the petitions are allowed. FIR No.46 dated 11.05.2008 under Section 306/34 IPC registered at Police Station GRP Jalandhar and all the consequent proceedings arising therefrom, are hereby quashed.

Pending application (s), if any, also stand disposed of.

A photocopy of this order be placed on the file of other connected case.

02.04.2024

Vivek

Whether speaking/reasoned?

Whether reportable?

(DEEPAK GUPTA)

JUDGE

Yes

No