



241 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31980-2024 (O&M)

Date of decision: 09.08.2024

BALJINDER KAMBOJ

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Balraj Singh, Advocate for
Mr. Nirmaljeet Singh Sidhu, Advocate for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. Ajay Singh, Advocate
for respondents No. 2 to 4.

HARPREET SINGH BRAR J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.0020 dated 23.01.2024 under Sections 306 & 506 of IPC, registered at Police Station Sohana, District SAS Nagar (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of affidavit/compromise dated 10.06.2024 (Annexure P-2).

2. The following order was passed on 08.07.2024:

"This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0020 dated 23.01.2024 under Sections 306 & 506 of IPC, registered at Police Station Sohana, District SAS Nagar (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of affidavit/compromise dated 10.06.2024 (Annexure P-2).

*Learned counsel for the petitioner relies upon judgments of Coordinate Benches of this Court in **Satish Kumar Bhargav and others Vs. State of Punjab and another, 2016(2) R.C.R (Criminal) 103, Varinder Kumar @ Bit and others Vs. State of Punjab and another, CRM-M-13053-2017 decided on 22.08.2019, Amar Nath Vs. State of Punjab and another, CRM-M-12158- 2018 decided on 09.05.2019 and Nirmaljit Singh and others***



Vs. State of Punjab and another, CRM-M-50641-2021 decided on 10.04.2023, to contend that quashing of FIR registered under Section 306 of IPC based on compromise can be allowed.

Notice of motion.

At this stage, on asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab accepts notice on behalf of respondent No.1-State and Mr. Ajay Singh, Advocate accepts notice for respondents No.2 to 4 and files his Vakalatnama, which is taken on record. Copy of the paper book be supplied to them during the course of day.

*Learned State counsel has opposed the prayer to quash the FIR on the basis of compromise, by submitting that the offence under Section 306 of IPC is heinous in nature and as such, compromise cannot be allowed in view of law laid down in **Daxaben Vs. State of Gujarat and others, 2022 SCC OnLine SC 936**, where it was expressly forbidden to quash the FIR based on financial settlement with informant, surviving spouse, parents, children or anyone.*

The offence of abetment of suicide as provided under Section 306 of IPC is non-compoundable due to its grave and heinous nature. However, High Court is competent to quash criminal proceedings relating to noncompoundable offences in exercise of its inherent power under Section 482 Cr.P.C. It is settled law that where the offence is private in nature and a compromise regarding the same has been arrived at voluntarily and without undue pressure, the criminal complaint or FIR or any criminal proceeding can be quashed in exercise of power under Section 482 Cr.P.C.

A two Judge Bench of the Hon'ble Supreme Court in Daxaben's case (supra), speaking through Justice Indira Banerjee, made the following observations:

"37. Offence under Section 306 of the IPC of abetment to commit suicide is a grave, non-compoundable offence. Of course, the inherent power of the High Court under section 482 of the Cr.P.C., 1973 is wide and can even be exercised to quash criminal proceedings relating to non-compoundable offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have compromised disputes essentially civil and personal in nature, the High Court can exercise its power under section 482 of the CrPC, 1973 to quash the criminal



proceedings. In what cases power to quash an FIR or a criminal complaint or criminal proceedings upon compromise can be exercised, would depend on the facts and circumstances of the case."

*A three Judge Bench of the Hon'ble Supreme Court in **State of Madhya Pradesh Vs. Laxmi Narayan and others, (2019) 5 SCC 688** opined that even though offence under Section 307 of IPC is a serious heinous offence and should be treated as a crime against society, it is open to the High Court to explore the facts and circumstances of the case to be satisfied that the ingredients of Section 307 are made out.*

A similar approach can be taken with regard to Section 306 of IPC to assess whether the offence is made out in the first place from the contents of the FIR before considering the case for quashing of the same on the basis of compromise. In the instant case, a perusal of the FIR indicates that it was lodged on the basis of statement of Ashok Kumar, father of the victim deceased, on the allegations that his daughter, aged about 21 years, was working in a private company at Mohali and was residing in a rented accommodation in Village Mauli Vedvan and she came in contact with the petitioner and he used to give beatings to her and quarrel with her and he has her obscene photographs. On 22.01.2024, the complainant received a phone call from Police Station Wahbawala that his daughter has committed suicide by hanging herself. On 23.01.2024, when he came to Village Mauli Vedvan and conducted enquiry, he found that her daughter had been murdered by the petitioner on the intervening night of 21/22.01.2024 and he ran away from the spot.

A perusal of the FIR indicates that no specific allegations of abatement are made against the petitioner and it is not clear as to how the petitioner harassed the deceased to commit the suicide. Mere allegations are not sufficient proof to invoke Section 306 of IPC against them.

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 or 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 the 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.

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 facilitates the commission thereof, is said to aid the doing of that act.

*A two Judge Bench of the Hon'ble Supreme Court in **Gangula Mohan Reddy Vs. State of Andhra Pradesh, 2010(1) SCC 750**, speaking through Justice Dalveer Bhandari, held as follows: "19. This court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), 2009(4) RCR (Criminal) 196 : 2009(5) RAJ 278 : 2009(11) SCALE 24 had an occasion to deal with this aspect of abetment. The court dealt with the dictionary meaning of the word "instigation" and "goading". The court 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 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.*

20. 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.



21. *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 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"*

*In **Swamy Prahaladdas Vs. State of M.P and another, 1995 SCC(Cri) 943**, where the accused was booked under Section 306 of IPC, as he had remarked 'go and die' to the deceased, a two Judge Bench of the Hon'ble Supreme Court held that merely uttering these words cannot be regarded as instigation and even a prima facie case cannot be made out on this ground alone.*

On application of the aforesaid legal position to the facts and circumstances of the present case, it transpires that a prima facie case under Section 306 of IPC is not made out. The allegations levied are vague and general in nature and no specific attribution has been made. Furthermore, ingredients of Section 306 of IPC are not made out by merely blaming the petitioners for the death of the deceased by suicide. This Court is not convinced that an offence under Section 306 of IPC is made out in the current facts and circumstances and is of the opinion that the FIR (supra) deserves to be quashed on the basis of compromise amongst the parties.

Adjourned to 09.08.2024.

In the meanwhile, the parties are directed to appear before the learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed.

A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance."

3. In compliance of the aforesaid order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

4. In view of the compromise and the ratio of law laid down by the Hon’ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466, Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834 and Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (CrI.) 1052**, this petition is allowed and FIR No.0020 dated 23.01.2024 under Sections 306 & 506 of IPC, registered at Police Station Sohana, District SAS Nagar (Annexure P-1) and all subsequent proceedings arising out of the same are quashed, qua the petitioner.

August 09, 2024

Ajay Goswami

- (i) Whether speaking/reasoned
- (ii) Whether reportable

(HARPREET SINGH BRAR)
JUDGE

Yes/No
Yes/No