

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34499-2023 (O&M)

Date of Decision: 03.09.2024

Ishan Arora

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sidhant Vermani, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

(1). This petition under Section 482 CrPC has been filed by the petitioner seeking quashing of FIR No.236 of 26.11.2022 under Section 306 IPC registered at Police Station City Kotakpura, Faridkot.

(2). Learned counsel for the petitioner raised the contention that the marriage between the petitioner and complainant's daughter Dolly Arora was duly solemnized and when her wishes to settle in Canada could not fructify, the complainant and his family members started blackmailing the petitioner and even file frivolous complaint to the Commissioner of Police, Ludhiana alleging that the marriage between the parties was not a legally and validly performed marriage, however, the said complaint was enquired into the police authorities vide enquiry reports wherein the petitioner and his family members were found to be innocent as no offence as alleged was found to have been committed by them.

(3). The petitioner has relied upon a report dated 29.09.2022 (Annexure P-12), which was forwarded by the Assistant Commissioner of Police, Industrial Area-B, Ludhiana to the Deputy Commissioner of Police,

Zone-2, Ludhiana in respect of the complaint against the present petitioner, and it has been contended that after thorough investigation, the allegations were found to be false and filing of complaint was recommended, but thereafter the instant FIR has been lodged on the same set of allegations without having any specific role attributed to the petitioner except bald allegations, which do not come within the ambit of Section 306 of IPC.

(4). It is argued that the petitioner, immediately after having got the news of sudden demise of his wife's brother, rushed to India from New Zealand (Annexure P19) which in fact certainly do not suggest any mala fide on the part of the petitioner and as such, there cannot be possibly any role in the suicide of complainant's son inasmuch as there was never ever any instigation or abetment, directly or indirectly, which constrained the victim to commit suicide.

(5). Reply has not been filed by the State counsel despite two opportunities, however, he is not in a position to controvert that enquiry reports dated 29.09.2022 and 08.02.2023 (Annexures P12 & P13, respectively) vide which the allegations leveled against the petitioner and his family members were found to be relating only to mutual differences between both the families. He further submitted that it is a matter of trial as to the involvement of the petitioner in regard to commission of suicide by the complainant's son and as such, the FIR ought not be quashed at this stage.

(6). Heard learned counsel for the parties and gone through the record.

(7). A brief recapitulation of the facts would itself speak about the occurrence and the psychological aspirations behind entering into the 'contract' of nuptial knot.

(8). The complainant's family published an advertisement for the marriage of his daughter Dolly specifically looking for a groom for Khatri Arora Girl having IELTS 6.5 band, conspicuously aspiring to go abroad, with a further pre-imposed condition that the expenses are to be borne by the groom himself. The marriage of the petitioner with Dolly Arora was performed, duly registered and even consummated. However, things started to change when Dolly Arora was refused Visa by the Australian Government but their application was approved by UK University of Central Lancashire. Dolly Arora was albeit keen to go to Canada only which led to interference by the complainant's family in the marital affairs of the petitioner and Dolly Arora to such an extent that the complainant family even threatened the petitioner to give divorce and pay hefty alimony.

(9). In their bid to arm-twist and blackmail the petitioner, the complainant and her daughter even filed complaints dated 05.09.2022 (Annexure P11) before the Commissioner of Police, Ludhiana alleging that the petitioner committed rape by forcibly and fraudulently marrying his daughter. Vide enquiry report dated 29.09.2022, the said application was found to be false and frivolous as the parents of Dolly Arora had performed marriage with mutual consent according to Hindu rites and ceremonies and as such, the allegations so leveled could not be proved during enquiry as the complainant failed to produce any substantial evidence in support of allegation of forcible

marriage and rape. The relevant extract of the enquiry report dated 29.09.2022 is reproduced as under:-

“...the parents of Dolly Arora had given her matrimonial advertisement in newspaper and afterwards both the families had performed their marriage with mutual consent. This marriage is found to have performed with Hindu rites and ceremonies. Ishan Kumar and Dolly Arora also used to do whatsapp chat with each other. Complainant Lekh Raj has levelled allegations of forcible marriage and rape but these allegations could not be proved during enquiry nor has complainant party presented any substantial evidence in support of allegations of forcible marriage and rape. Complainant's daughter Dolly Arora wanted to go to Canada and her husband want to send her to U.K. He has paid her college fees in U.K. and has also got conducted her medical for sending her to U.K. Documents are attached herewith. The matter is of mutual differences between both families. Local police is not required to take any action on complaint. Complaint should be filed to office record.”

(10). Even in the 2nd enquiry report conducted on the complaint of Dolly Arora, the Senior Superintendent of Police, Khanna in letter dated 08.02.2023 addressed to the Director, Bureau of Investigation, Punjab, on the basis of the report of investigation conducted by Dr. Pragya Jain, IPS, SP (I/PBI), Khanna, opined that the application moved by the complainant does not require any action and is recommended to be consigned. The relevant portion of the said letter (Annexure P13) reads as under:-

“...Relevant records were produced by both the parties. Application Verification of marriage certificate regarding marriage of Dolly Arora and Ishaan Kumar from Marriage Registrar, Amritsar-1 was got conducted from which it was found that the applicant Dolly Arora and Ishaan Kumar are legally

husband and wife. Which has been confirmed to be organized according to Hindu rituals. Which is confirmed from the photos of Dolly Arora and Ishaan Kumar during their wedding and their WhatsApp chats. Regarding Dolly Arora's going abroad, both the parties have been found to have transferred money to each other's bank accounts. They jointly applied for overseas visa for Australia and later UK with mutual consent to go abroad. Apart from this, the applicant Dolly Arora and Ishaan Kumar have been found to move around as husband and wife at their own will after marriage. Nothing has come out about the allegations made by the applicant Dolly Arora...”

(11). On 26.11.2022, the instant FIR is registered by the complainant alleging that on 22.11.2022, his son Vinay Manchanda has hung himself from ceiling fan leaving a suicide note wherein allegedly the deceased has named the petitioner and held him responsible for commission of suicide by him.

(12). It is astonishing to find in the FIR itself, there is a mention to the fact that the complaints filed by the complainant and Dolly Arora have already been filed finding it to be just a domestic dispute and the deceased was stated to be upset with such ‘unfavourable’ events, so drastic and catastrophic enough to constrain him to commit suicide.

(13). In **M. Mohan v. State (Represented by the Deputy Superintendent of Police), (2011) 3 SCC 626** which related to an incident where the deceased was denied use of the family car for coming to Theme Park on the occasion of Pongal. While the entire family travelled in the family car belonging to the brother-in-law, the deceased and her husband were told to reach the destination by public bus and the deceased was told that if she wants to travel by car, she has to bring a car from her family. Hurt by the taunting

statement regarding denial of use of family car, the deceased demanded a car from her father and committed suicide after four days. The Supreme Court came to the conclusion that there was no proximate link between the incident dated 14.01.2005 (when the deceased was denied use of the family car) and the suicide which had taken place on 18.01.2005. It was noted that the deceased was hyper-sensitive to ordinary petulance, discord and differences which happen in day-to-day life, especially in a joint family. After masquerading through the entire law, the criminal proceedings were quashed.

(14). In **Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433** the Supreme Court held that the basic ingredients of Section 306 IPC are suicidal death on account of abetment which must constitute intention and involvement of the accused person to have aided or instigated the deceased to commit suicide, and in isolation of such basic constituents, the accused cannot be indicted. The relevant portion of the observations made by the Apex Court read as under:-

“xxx 21. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicating existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of these constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 IPC. Contiguity, continuity, culpability and complicity of the indictable acts or

omission are the concomitant indices of abetment. Section 306 IPC, thus criminalizes the sustained incitement for suicide.

(15). In **Ude Singh & Ors. v. State of Haryana, (2019) 17 SCC 301**, the Supreme Court while taking account of the different ways in which different people react to similar actions, observed as under:-

“16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding

factors having bearing on the actions and psyche of the accused and the deceased. xxx”

(16). Break-down of marital relationships between two families are part of today's modern life-style and ideology of youth and looking at the present times where endurance and patience are negligible, the words uttered, in the heat of the moment between quarrelling people, are casual in nature, and thus nothing serious is expected to follow which would tantamount to abetment to commit suicide. Albeit, in the present case, the complainant has even failed to establish before this Court that the petitioner, by his acts or omission or by a continued course of conduct, created such a circumstance that the deceased, who is son of the complainant and brother-in-law of the petitioner, was left with no other option except to commit suicide. So much so, there is no transaction or exchange or words or such other overt or inert action of incitement or *mens rea* which may be remotely suggestive to result in such drastic consequence of committing suicide. Different individuals in the same situation react and behave differently because of the personal meaning and perception they staple to each event, thus accounting for individual vulnerability to suicide.

(17). The legal stance on Section 306 IPC requires a clear connection between the accused's actions and the deceased's decision to end his life. Simply mentioning petitioner's name in the suicide note holding him responsible for his death is not enough to prosecute or convict the petitioner under this section. The petitioner's specific action must be examined in the context of the surrounding circumstances to determine if it contributed to the suicide. Apart from his name coming in the suicide note of the deceased, no

other fact has been placed on record as to show what act was committed by the petitioner with the deceased dragging him to commit suicide. The word instigate denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of *mens rea*, therefore, is the necessary concomitant of instigation. Moreso, what are the circumstances due to which there has been a gap of 4 days in filing of FIR is also left unexplained raising serious doubts on the conduct of the complainant as also the prosecution.

(18). Accordingly, this petition is allowed and the FIR No.236 of 26.11.2022 under Section 306 IPC registered at Police Station City Kotakpura, Faridkot *qua* the petitioner is hereby quashed.

03.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No