

HIGH COURT OF PUNJAB AND HARYANA**Bench: Justice Deepak Gupta****Date of Decision: 6th May 2024**

CRM-M-45353-2019 (O&M)

IQBAL SINGH SANDHU AND OTHERS ...PETITIONERS**VERSUS****STATE OF PUNJAB AND OTHERS ...RESPONDENTS****Legislation:**

Section 306 of the Indian Penal Code (IPC)

Section 506 of the Indian Penal Code (IPC)

Section 120-B of the Indian Penal Code (IPC)

Section 482 of the Code of Criminal Procedure (CrPC)

Subject: Petition to quash FIR No. 40 dated 16.07.2018 registered at Police Station Mullanpur, District SAS Nagar, Mohali, on the basis of a compromise dated 02.06.2017.

Headnotes:

Criminal Law – Quashing of FIR – Petitioners sought quashing of FIR under Sections 306, 506, and 120-B IPC based on a compromise – State opposed, citing the heinous nature of the offense under Section 306 IPC – Court considered precedents allowing quashing in personal disputes when parties have resolved differences – FIR quashed based on compromise and lack of specific allegations establishing offense under Section 306 IPC [Paras 1-11, 29].

Compromise in Criminal Cases – Section 306 IPC – Court referenced various precedents where FIRs under Section 306 IPC were quashed based on compromise, considering the personal nature of disputes and absence of compelling evidence – Highlighted principles from State of Madhya Pradesh v. Laxmi Narayan and others, emphasizing the need to consider the facts and circumstances of each case [Paras 9-14, 16-27].

Decision: Petition allowed – FIR No. 40 dated 16.07.2018 and all subsequent proceedings quashed on the basis of compromise dated 02.06.2017 [Paras 29-31].

Referred Cases:

- Daxaben vs. State of Gujarat and others, 2022(3) Crimes 224
- Satish Kumar Bhargav and others vs. State of Punjab and another, 2018(2) R.C.R. (Criminal) 103

- Varinder Kumar @ Bitra and others vs. State of Punjab and another, CRM-M-13053 of 2017 (O&M)
- Amar Nath vs. State of Punjab and another, CRM-M-12158 of 2018
- Nirmaljit Singh and others vs. State of Punjab and Another, CRM-M-50641 of 2021 (O&M)
- Sunita vs. State, CRM-M-5794-2020
- State of Madhya Pradesh vs. Laxmi Narayan and others, (2019) 5 SCC 688
- Kapil Agarwal & Ors. vs. Sanjay Sharma & Others, (2021) 5 SCC 524
- Smt. Nagawwa vs. Veeranna Shivalingappa Konjalgi, (1976) 3 SCC 736
- Sharda Prasad Sinha vs. State of Bihar, (1977) 1 SCC 505
- Gangula Mohan Reddy vs. State of Andhra Pradesh, 2010 (2) Cri.L.J. 2110
- Ude Singh & Others vs. State of Haryana, (2019) 17 SCC 301
- S.S. Chheena vs. Vijay Kumar Mahajan and Another, (2010) 12 SCC 190
- State of West Bengal vs. Orilal Jaiswal and Anr., (1994) 1 SCC 73
- Swamy Prahaladdas vs. State of M.P. & Anr., 1995 Supp. (3) SCC 438
- Vineet Kumar and others vs. State of Uttar Pradesh and others, (2017) 13 SCC 369

Representing Advocates:

Mr. Anuj Raura for petitioner No. 1

Ms. Rajvinder Kaur Sohal for petitioner Nos. 2 to 5

Mr. Baljinder Singh, DAG, Punjab for the respondents

DEEPAK GUPTA, J.

Prayer in this petition is to quash FIR No.40 dated 16.07.2018 registered at Police Station Mullanpur, District SAS Nagar, Mohali under Sections 306/506/120-B IPC, on the basis of compromise dated 02.06.2017.

2. Pursuant to the order dated 16.12.2019, parties appeared before the trial Court and got their statements recorded, affirming the compromise. Report dated 03.02.2020 of learned District & Sessions Judge, SAS Nagar, Mohali has been received, as per which statements of the affected persons and the petitioners-accused have been recorded and that the compromise is effected with free will, as parties want to live in peace and harmony to avoid any future conflict.

3. However, learned State Counsel has opposed the prayer to quash the FIR on the basis of compromise by submitting that offence under Section 306 IPC is a heinous crime and quashing on the basis of compromise of such an

offence, cannot be allowed. He has relied upon Page N: 1 of 13 Pages 1 of 13 Neutral Citation No:=2024:PHHC:062644 CRM-M-45353-2019 2023:PHHC:062644 Daxaben Vs. State of Gujarat and others, 2022(3) Crimes 224, wherein accused was the wife of the deceased and her prosecution was sought for committing offence under Section 306 IPC. It was held by Hon'ble Supreme Court that FIR under Section 306 IPC cannot be quashed on the basis of any financial settlement with informant, surviving spouse, parents, children, guardians, care-givers or anyone else.

4. On the other hand, learned counsel for the petitioners have referred to following authorities to contend that various co-ordinate Benches of this Court have allowed the quashing of FIR under Section 306 IPC on the basis of compromise:

- (a) Satish Kumar Bhargav and others Vs. State of Punjab and another, 2018(2) R.C.R. (Criminal) 103;
- (b) Varinder Kumar @ Bitra and others Vs. State of Punjab and another - CRM-M-13053 of 2017 (O&M) decided on 22.08.2019;
- (c) Amar Nath Vs. State of Punjab and another - CRM-M-12158 of 2018 decided on 09.05.2019;
- (d) Nirmaljit Singh and others Vs. State of Punjab and Another - CRM- M-50641 of 2021 (O&M), decided on 10.04.2023.
- (e) Sunita vs. State, CRM-M-5794-2020 decided on 28.04.2023.

5. Considered the submissions of counsel for all the sides and perused the record.

6. The limits of the inherent power granted to the High Courts under Section 482 Cr.P.C has been explained by Hon'ble Supreme Court from time to time in catena of authorities. In Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi, (1976) 3 SCC 736, while discussing the scope of Section 202 and 204 of the Code of Criminal Procedure, Hon'ble Supreme Court laid down the guidelines and the grounds on which proceedings could be quashed under Section 482 Cr.P.C, by observing as follows:-

"(1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and (4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like. The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can quash proceedings."

7. Taking similar view, it has been held in *Sharda Prasad Sinha Vs. State of Bihar*, (1977) 1 SCC 505, as under:-

"It is now settled law that where the allegations set out in the complaint or the charge-sheet do not constitute any offence, it is competent to the High Court exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 to quash the order passed by the Magistrate taking cognizance of the offence.

10. It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the complaint or the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings in exercise of its powers under Section 482 of the present Code."

8. In *Kapil Agarwal & Ors. v. Sanjay Sharma & Others*, (2021) 5 SCC 524, Hon'ble Apex Court observed that Section 482 of the Cr.P.C. is designed to

achieve the purpose of ensuring that criminal proceedings are not permitted to degenerate into weapons of harassment.

9. Offence under Section 306 of the IPC of abetment to commit suicide is a grave and non-compoundable offence. The inherent power of the High Court under Section 482 of the Cr.P.C. 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 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.
10. In *State of Madhya Pradesh v. Laxmi Narayan & Ors.*, (2019) 5 SCC 688, a three-Judge Bench of Hon'ble Supreme Court discussed the earlier judgments of the Court and laid down the following principles:-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to herein above, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity

are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [(2014) 6 SCC 466: (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated herein above;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc."

11. The above-said legal position would reveal that though inherent power conferred under Section 482 Cr.P.C to quash the criminal proceedings can be exercised even for non-compoundable offences, not covered under Section 320 of the Code but such power should not be exercised in those proceedings, which involve heinous and serious offences of mental depravity i.e., offences like murder, rape, dacoity etc. As such, proceedings arising out of offences which are not private in nature and have a serious impact on the society, should not be allowed to be quashed.
12. In *Daxaben* (supra), it has been held by Hon'ble Supreme Court as under:-

"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. 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 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."
13. Thus, though offence under Section 306 IPC of abetment to commit suicide is grave and non-compoundable offence but it has been clarified that in what cases, power to quash the FIR or a criminal complaint or criminal proceedings upon compromise can be exercised, would depend upon the facts and circumstances of the case.
14. As held in *State of Madhya Pradesh V. Laxmi Narayan and others'* case (supra), though offence under Section 307 IPC falls in the category of heinous and serious offences and, so, is to be treated as crime against society and not against the individual alone, but still the High Court would not raise its decision merely because there is a mention of Section 307 IPC in the FIR or the charges framed under this provision. It is open to the High Court to examine as to whether the incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC.

15. On the same analogy, it is required to be seen by the High Court as to whether Section 306 IPC is even made out from the contents of FIR or not before coming to the conclusion that quashing of proceedings under Section 306 IPC on the basis of compromise should be allowed or not by exercising power under Section 482 Cr.P.C.
16. In the present case, the perusal of the FIR (Annexure P1) would reveal that it was lodged on the complaint of one Paramjit Kaur, whose husband Harnek Singh committed suicide on 15.07.2018 with his licensed gun. The accused named in the FIR, blamed for committing the suicide, are the petitioners. As per allegations, there was some dispute between Iqbal Singh (petitioner N: 1) and Harnek Singh (since deceased), which was settled vide compromise dated 02.06.2017. Iqbal Singh Sandhu had purchased land of Bant Singh and deceased had got purchased land to Bant Singh. Bant Singh had fallen short of money at the time of execution of sale deed and the deceased had given money to Bant Singh, who got deposited the same in the account of the deceased. Iqbal Singh had knowledge about the money deposited by Bant Singh and thus, Bant Singh, his sons Harnek Singh, Bahadar Singh and his grandson Harmeet Singh s/o Bahadar Singh were harassing and issued threats to the life of deceased.
17. There is also reference of suicide note, left by the deceased in which he blamed the accused petitioner Iqbal Singh to be responsible for his death. The suicide note (Annexure P6) reads as under: -

"SUICIDE NOTE I Harnek Singh son of Ujagar Singh resident of Village Kartarpur Police Station Mullanpur Garibdas, District SAS Nagar, Mohali.

I am writing this note in my all senses that reason of my death is only Iqbal Singh Sandhu son of Sarwan Singh 1596, Sector 69, SAS Nagar Mohali.

This person has mentally disturbed me a lot. He had cheated me for Rs. 20 lacs. This matter had gone to SSP, inspite that he has returned Rs. 10 lacs. Accordingly Iqbal Singh is responsible for my death. Action be taken against him.

Sd/- Harnek Singh 14.07.2018"

18. Petitioners have placed on record a receipt (Annexure P2 colly) to contend that money dispute between deceased and Iqbal had been settled. Said receipt, signed by deceased is as under:

"Receipt The mutual compromise which was entered into between Harnek Singh and Iqbal Singh on 2.6.17, as per it Iqbal Singh was to do RTGS of Rs. Seven lacs (700000) in bank account of Harnek Singh. In lieu of that Iqbal Singh has prepared a draft No. 335635 in favour of Harnek Singh and sent through Rajinder Singh, which has been received by Harnek Singh.

Sd/- Rajinder Singh Sd/- Harnek Singh"

Thus, as per above receipt, payment had already been made to Harnek Singh (deceased), who then executed the above receipt, correctness of which has not been disputed before this court.

19. The question is as to whether on the basis of vague allegations made in the FIR or in the suicidenote, Section 306 IPC is made out, as no details whatsoever are given as to when and in what manner, petitioners harassed the deceased. Simply by mentioning in the suicide note that accusedpetitioner Iqbal Singh harassed the deceased and is responsible for the commission of suicide by deceased, cannot be sufficient to invoke Section 306 IPC.
20. Section 107 and 306 IPC are relevant here, which read 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."

21. Hon'ble Supreme Court while dealing with Sections 306 and 107 of the Indian Penal Code in *Gangula Mohan Reddy Vs. State of Andhra Pradesh*, 2010 (2) Cri.L.J. 2110 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 (Cr.) 196 (SC) relied."

22. Further, there should be an allegation of either direct or indirect act of incitement to the commission of offence of suicide. In *Ude Singh & Others Vs. State of Haryana* (2019) 17 SCC 301, reiterating the earlier decisions, it has been held that instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the person who commits 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. However, on the other hand, if the accused by his act or 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.

23. In *S.S. Chheena v. Vijay Kumar Mahajan and Another*, (2010) 12 SCC 190, it has been held by

Hon'ble Supreme Court and observed as under:-

"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

24. In the case of *State of West Bengal vs. Orilal Jaiswal and Anr.*, (1994) 1 SCC 73, Hon'ble The Supreme Court observed that:

"We may add here that the Court 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 satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

25. In *Swamy Prahaladdas vs. State of M.P. & Anr.*, 1995 Supp. (3) SCC 438, the appellant was charged for an offence under Section 306 IPC on the ground that the appellant during the quarrel is said to have remarked the deceased 'to go and die'. It was held by Hon'ble Supreme Court that mere

words uttered by the accused to the deceased 'to go and die' were not even prima facie enough to instigate the deceased to commit suicide.

26. When the legal position as discussed above for making out an offence under Section 306 IPC is applied to the facts of the present case, it would make out that even prima-facie, offence under Section 306 IPC is not made out, as the allegations contained in the FIR against the petitioners are quite vague and general in nature with no specific attribution to anybody. Merely by blaming the petitioners to be responsible for commission of suicide by the deceased in the suicide note, cannot be sufficient to invoke Section 306 IPC.
27. In the aforesaid circumstances, when this Court is not even convinced that offence under Section 306 IPC would prima facie make out, it is felt that there should be no hesitation in quashing the FIR based on compromise amongst the parties.
28. In *Vineet Kumar and others vs. State of Uttar Pradesh and others* (2017) 13 SCC 369, it has been held by Hon'ble Supreme Court as under:-

"23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in *State of Karnataka vs. L. Muniswamy*, (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated:

'7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like

would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."

29. In view of entire evaluation of the facts and legal position as stated above, this Court finds that allegations set out in the FIR or the suicide note, do not constitute the offence under Section 306 IPC, therefore, the petitioners should not be compelled to undergo the rigmarole and ordeal of trial, particularly when the compromise has been effected between the petitioners and the family members of the deceased and so, quashing of the proceedings would serve the solitary purpose of Section 482 Cr.P.C so as to prevent the abuse of process of the law.

30. In the similar facts and circumstances, a co-ordinate Bench of this High Court quashed proceedings under Section 306 IPC in CRM-M- 50641 of 2021 (O&M) titled "Nirmaljit Singh and others Vs. State of Punjab and another(supra)", after finding that as per the allegations in the FIR, no offence under Section 306 IPC was made out. Similarly, other co- ordinate Benches of this High Court in Satish Kumar Bhargav and others (supra), Varinder Kumar @ Bitra and others (supra) and Amar Nath Vs. State of Punjab and another (supra), have allowed the quashing of the FIRs under Section 306 IPC on the basis of compromise.

31. In view of the entire discussion, present petition is accepted. FIR No.40 dated 16.07.2018 registered at Police Station Mullanpur, District SAS Nagar, Mohali under Sections 306/506/120-B IPC and all subsequent proceedings arising therefrom, are hereby quashed on the basis of compromise dated 02.06.2017.

*Disclaimer: Always compare with the original copy of judgment from the official website.