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**(2012) 07 P&H CK 0097**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Criminal Misc. No. M-28011 of 2010 (O and M)

Kuldeep Kaur and others

APPELLANT

Vs

State of Punjab and another

RESPONDENT

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**Date of Decision :** 18-07-2012

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 482  
Penal Code, 1860 (IPC) — Section 306, 34

**Citation :** (2012) 07 P&H CK 0097

**Hon'ble Judges :** Sabina, J

**Bench :** Single Bench

**Advocate :** D.S. Pheruman, for the Appellant; D.S. Paul, DAG, Punjab and Mr. Onkar Rai, Advocate, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Sabina, J.—By way of this petition filed u/s 482 of the Code of Criminal Procedure, 1973, the petitioners have sought quashing of FIR No.86 dated 1.11.2009 (Annexure P-7), under Sections 306/34 of the Indian Penal Code, 1860 ("IPC" for short), registered at Police Station Haryana District Hoshiarpur and order dated 8.5.2010 (Annexure P-6) framing the charge. Prosecution story, in brief, is that Kulwinder Singh, brother of the complainant was married to Kuldip Kaur in November, 2006. After marriage Kulwinder Singh and his wife were blessed with twins. Kulwinder Singh was residing separately with his wife. However, relations between them became strained. On 19.10.2009 a quarrel took place between Kuldip Kaur and Saroj Rani (wife of elder brother of the complainant) and a complaint was given in the police station Mukerian. Thereafter, a compromise was effected between them. On 21.10.2009 Kuldip Kaur quarrelled with Resham Kaur, mother of the complainant. Due to this Kulwinder Singh remained upset. On the same day Kulwinder Singh, Kuldip Kaur and their children went to the parental house of Kuldip Kaur at village Pandori Sumbla. On 22.10.2009, Gurdarshan Pal (brother of Kulwinder Singh) rang up Satwinder Singh (father-in-law of Kulwinder Singh) on his mobile phone and he

was informed that Kulwinder Singh was not feeling well. On 23.10.2009, at about 3.15 p.m. Satwinder Singh informed Gurdarshan Pal that the condition of Kulwinder Singh was serious. At about 4.00 P.M. Gurdarshan Pal received a message from Satwinder Singh that Kulwinder Singh had died. A suicide note written by Kulwinder Singh was recovered on 30.10.2009 from his shop. Hence, the FIR in question was lodged on the basis of the statement of complainant Surinder Pal Singh.

2. Learned counsel for the petitioners has vehemently argued that no case u/s 306/ 34 IPC was made out in this case. Trial Court had erred in framing charge against the petitioners qua commission of offence u/s 306/34 IPC. It was necessary for the prosecution to prima facie establish that the petitioners had instigated or abetted the commission of suicide by the deceased. In support of his arguments, learned counsel has placed reliance on Anil Kumar Sarkar vs. State of W.B. and others 2009 CrL.J.4678; Prabhakar vs. State of Maharashtra 2004 (1) F.J.C.C.191; Kartar Singh and others vs. Central Bureau of Investigation 2007 (5) RCR (Criminal) 274; Ashok Goyal vs. State 2011 (3) RCR (Criminal) 772; M.Mohan vs. State Tr.Dy.Suptd. of Police 2011 (2) RCR (Criminal) 272; Ashwani Kumar vs. State of Haryana 2011 (1)RCR (Criminal) 108 and Ramesh Chander Sibbal vs. State (Govt. of NCT of Delhi) 2010 (1) RCR (Criminal) 673.

3. Learned State counsel as well as learned counsel for respondent No.2, on the other hand, have opposed the petitioner. They have submitted that the deceased had left suicide note and hence, criminal proceedings against the petitioners were liable to continue.

4. After hearing learned counsel for the parties, I am of the opinion that the present petition deserves to be dismissed.

5. In the present case, a perusal of the FIR reveals that the relations between Kulwinder Singh and his wife were strained. As per the report of the chemical examiner, the deceased had died due to consumption of aluminum phosphate insecticide. Thus, deceased Kulwinder Singh had not died a natural death and had committed suicide by consumption of poison. During investigation, suicide note alleged to have been written by the deceased, was recovered. The translated version of the same is on record as Annexure P-4 and reads as under:

Myself Kulwinder Singh, village Bara Bagowa (Sumla Pandori). I was married with Kuldeep Kaur and my wife after the marriage did not have good relations with me. She was abusing to my mother and brothers. Her parents do not advice her rather they are harassing me. Because of their harassment I am going to commit a suicide. They are not bothering me nor they advice to their daughter.

6. On the day of consumption of poison, the deceased was in the house of petitioners No.2 and 3. The argument raised by learned counsel for the petitioners that the deceased had committed suicide due to family dispute and not on account of instigation by the petitioners can be examined during trial. At this stage, it would not be just and expedient to scuttle the criminal proceedings

at the very threshold. The deceased in his suicide note had categorically stated that he was committing suicide on account of harassment meted out to him by his wife and her parents. I have gone through the judgments relied upon by learned counsel for the petitioners. There is no quarrel qua the proposition of law settled vide these judgments that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of thing. However, the judgments relied upon by learned counsel for the petitioners fail to advance the case of the petitioners as these are based on different facts. At this stage, there was prima facie evidence on record against the petitioners for framing of the charge. Hence, it would not be appropriate to quash the criminal proceedings.

Accordingly, this petition is dismissed.