

IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH

...

Crl. A. No. S-424-SB of 2013
Date of Decision: 02.02.2015

Sukhjinder Singh

...Appellant

VERSUS

Balbir Singh, retired S.I/S.H.O

...Respondent

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

QUORUM : HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. R.K. Rana, Advocate
for the appellant.

Mr. Bhag Singh, Advocate
for the respondent

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RITU BAHRI, J.

Crl. Misc. No. 9553-2014

For the reasons mentioned in the application,
delay of 218 days in filing the present appeal is condoned.

The application stands disposed of accordingly.

Main case

The present appeal is against the judgment dated
08.05.2012, whereby the complaint filed by the present
appellant has been dismissed and the accused-respondent

Balbr Singh was acquitted of the charges framed against him.

As per the prosecution story, a criminal case was registered against the appellant and his family members under Sections 323/307 IPC etc, vide F.I.R No. 111/2002, in P.S. Naraingarh. The uncle of the complainant namely Gurdeep Singh was arrested by the accused Balbir Singh, S.I on 04.09.2002 and he was medico legally examined in Civil Hospital Naraingarh on 5.9.2002 and thereafter, on the same day, Gurdip Singh was produced before the Court from where he was remanded to judicial custody. The complainant/appellant and Gurbachan Singh filed a bail application under Section 439 Cr.P.C in the Court of Ms. Anita Chaudhary the then learned Additional Sessions Judge, Ambala on 10.09.2002 and the accused Balbir Singh intentionally and deliberately in connivance with the complainant of that case namely Tejvir Singh prepared a fake record and produced the same in the Court of learned Additional Sessions Judge, Ambala and submitted wrong facts intentionally with prior knowledge that accused Gurdeep Singh is not yet arrested and on that fake ground/report of the accused, the bail application of the present complainant was dismissed. The accused Balbir Singh by intentionally preparing fake/false report submitted the same during the judicial proceedings and has thus

committed an offence punishable under Sections 192/193/196/197/218 IPC. The complainant/appellant had filed a complaint before the Illaqa Magistrate and the accused-respondent was summoned but thereafter, vide order dated 02.08.2010 he was discharged on the ground that the complain should have been filed by the complainant before the successor Court of Ms. Anita Chaudhary the then learned Additional Sessions Judge, Ambala. Thereafter, the present complaint has been filed and the trial Court dismissed the complaint on the ground that earlier in the complaint made by the complainant against Balbir Singh, the accused was summoned and vide order dated 02.08.2010 he was discharged as no prima facie case is made out against the accused for serving notice or framing charge. While exercising powers under Section 340 Cr.P.C, the Court is not bound to make a complaint for commission of offence under Section 195(1) Cr.P.C.

Learned counsel for the petitioner has placed on record a copy of judgment dated 07.01.2006 accompanying additional affidavit of Sukhjinder Singh. Vide judgment dated 07.01.2006 passed in F.I.R No. 111/2002, which was registered against the appellant and his family members, the Court has convicted only Gurdeep Singh and acquitted all other co-accused on account of false information given before the Court. The appeal against this judgment has been

admitted by this Court and sentence of the accused has been suspended, vide order dated 17.04.2006.

A perusal of order dated 08.05.2012 shows that the complainant had filed a contempt petition against the accused and it was decided by learned ACJM, Ambala. While examining a complaint under Section 340 Cr.P.C, the trial Court kept in view the above two facts i.e the accused was discharged on 02.08.2010 and the contempt petition filed by the complainant against the accused, had already been decided. As per the language of Section 340 Cr.P.C the Court is not bound to make a complaint regarding commission of offence of an offence referred to in Section 195(1) as the section is conditioned by the words "court is of the opinion that it is expedient in the interest of justice".

Consequently, finding no merit in this appeal, I hereby dismiss the same.

02.02.2015

G Arora

(RITU BAHRI)
JUDGE