

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**Criminal Misc.No.27763 of 2014 in/and
Criminal Misc. No.A-1453-MA of 2014 (O&M)
Date of decision: 13th February, 2015**

Harbhajan Singh Ahluwalia

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Shailendra Sharma, Advocate, for the applicant.

INDERJIT SINGH, J.

Criminal Misc.No.27763 of 2014

Heard. As the delay has been caused only on the ground that appeal was wrongly filed before the Additional Sessions Judge, against the judgment of acquittal in complaint, therefore, the application is allowed. Delay of 755 days in filing the application for grant of leave to file appeal is condoned.

Criminal Misc.No.A-1453-MA of 2014

Applicant has filed this application against respondents- State of Punjab etc. under Section 378 (4) Cr.P.C. for grant of leave to file appeal.

It is mainly stated in the application that accompanying criminal appeal against the judgment of acquittal is being filed and the applicant is sanguine of its success for the detailed reasons given in the grounds of appeal. It is further stated that the learned trial Court, without appreciating the facts of the case on record, acquitted respondent Nos.2 to 6. The applicant has very good case

but the learned trial Court did not appreciate the facts of the case as well as judgment relied upon by the applicant.

I have heard learned counsel for the applicant and have gone through the record.

Brief facts of the case are that the complainant-petitioner (hereinreferred as 'the complainant') filed the complaint under Sections 499 and 500 IPC against the accused-respondent Nos.2 to 6 (hereinreferred as 'the accused') mainly on the allegations that they filed false FIR against him in counter-blast to the application given by him to the Vigilance Department. The complainant was working as Deputy Manager in the Punjab Communication Limited (in short 'PCL') whereas accused No.2 A.S.Gill took over the charge of M.D., PCL. The other accused are also the officers of the PCL.

From the judgment, passed by the learned trial Court, I find that the accused got registered the FIR on 14.12.1997 and the complainant was acquitted in that case in the year 2002. The present complaint has been filed by the complainant in the year 2003. Learned trial Court, after discussing the law on the point, held that the complaint is time barred. It should have been filed within 3 years i.e. Upto 2000 and the learned Court was not satisfied from the explanation given by the complainant that the case has been decided in the year 2002.

From the record, I find that the learned trial Court has correctly dismissed the complaint being time barred.

Learned counsel for the applicant has cited **2011 AIR (Supreme Court) 2112 Noida Entrepreneurs Association vs. Noida and others** and **1999 (2) RCR (Criminal) 828 Arun Vyas versus Anita Vyas.**

I have gone through the aforesaid citations.

These citations having distinguished facts will not apply in the present case.

From the facts of the case, it shows that offence of defamation has been committed by the accused by getting registered false FIR against the complainant in the year 1997, therefore, cause of action arose on that date and the complaint should have been filed within 3 years as per Section 468 Cr.P.C. Though, as per Section 473 Cr.P.C., the Court can condone the limitation period if satisfactory explanation is given. This is not the explanation that the complainant did not file the complaint and he was waiting for the result of that FIR.

From the above discussion, I find that the judgment, passed by the learned trial Court is correct and as per law and it does not require any interference by this Court.

Therefore, finding no ground for grant of leave to file appeal under Section 378 (4) Cr.P.C. , the instant application stands dismissed.

13th February, 2015
mamta

(INDERJIT SINGH)
JUDGE