

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-1872-MA of 2014 (O&M)
Date of decision: September 15, 2015

Rajender

...Applicant

Versus

Salinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Arvind Bansal, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Rajender has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents Salinder Singh and Dinesh Chand, challenging the judgment dated 26.09.2014 passed by learned Chief Judicial Magistrate, Kaithal, whereby the complaint filed by the applicant was dismissed and accused-respondent was acquitted.

It is stated in the application that accompanying appeal is likely to succeed. The appeal has been filed against the judgment dated 26.09.2014 whereby the accused-respondents have been acquitted by learned Chief Judicial Magistrate, Kaithal. It is further stated in the application that there are sufficient grounds for grant of special leave to appeal. By the acquittal of the accused-respondents, miscarriage of justice has been done.

As per the record, the complainant Rajender filed a complaint against accused-respondents Salinder Singh and Dinesh Chand under Sections 500 and 501 IPC. As per complainant's version, he is agriculturist and used to sell his grains through M/s Mangal Trading Company, Grain Market, Pundri of which both the accused are partners. On 28.03.2006, accused Dinesh Chand had borrowed a sum of ₹12 lacs from him on interest @ 12% per annum but the accused neither tendered the accounts to him nor returned the borrowed amount. It is further the case of the complainant that in order to harm his reputation and to defame him and to save themselves from rendering the accounts and from returning the borrowed amount, the accused filed a false complaint against him and his brother Rajesh with the allegations that they had grabbed ₹28 lacs from the accused by way of cheating. Though the complaint was later on found false but the allegations made by the accused has lowered his reputation among the society. The complainant examined himself as CW-1, CW-2 Rajesh, CW-3 Subhash, CW-4 Ram Kishan and CW-5 Balkishan.

On the basis of the evidence on record, learned Chief Judicial Magistrate, Kaithal, acquitted the accused-respondents vide impugned judgment dated 26.09.2014.

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

As argued by learned counsel for the applicant, the complaint was given to the police but the police, on enquiry, found it

false and no action was taken. After the complaint is given to the police and the police has not taken any action on that complaint, itself will not amount to publication of the defamatory material. One of the main ingredient is publication. There is no cogent evidence on the record to show that as to how the allegations have been published in the society at large. How, people came to know regarding the allegations in the application which was with the police officials. The accused have not published the allegations, if any, to any person. Therefore, as publication has not been proved which is the main ingredient, accused-respondents have been acquitted.

From the perusal of the impugned judgment, I find that the findings given by learned CJM, Kaithal are correct, as per law and evidence. Neither, the findings can be held as perverse nor it can be held that any evidence has been misread by the Court below. Nothing has been pointed out as to whether any material evidence has not been considered by the Court below.

From the above, I find that judgment dated 26.09.2014 passed by learned CJM, Kaithal, is correct, as per evidence and law.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

September 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE