

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.A-254-MA of 2015 (O&M)

Date of decision: 12th October, 2015

Avtar Singh

...Applicant

Versus

Gagandeep alias Neelam

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pankaj Bali, Advocate, for the applicant.

INDERJIT SINGH, J.

Applicant Avtar Singh has preferred this application under Section 378(4) Cr.P.C. seeking permission for leave to file appeal against respondent Gagandeep alias Neelam, challenging the impugned judgment dated 13.11.2014, passed by the learned Judicial Magistrate Ist Class, Khanna, whereby the complaint filed by him was dismissed and accused-respondent was acquitted.

It is mainly stated in the application that the accompanying appeal has been filed which is likely to succeed. It is further stated that certain complicated questions of law and facts have arisen. It is stated that the learned trial Court wrongly determined the facts and law produced and relied upon by the applicant. The learned trial Court erred in scrutinizing the evidence present on the case file. It is prayed that leave be granted to the applicant to file appeal against the respondent.

As per record, petitioner-complainant Avtar Singh (hereinreferred as 'the complainant') filed a complaint against his wife

Gagandeep alias Neelam respondent-accused (hereinreferred as 'the accused') under Sections 499 and 500 IPC on the allegation that she had filed a petition under Section 125 Cr.P.C. against him. The complainant has also filed a divorce petition. The complainant is working as Head Constable in the police department at Khanna and bears good reputation. Accused moved various applications against the complainant in police department etc. She moved an application before the office of DSP, Punjab Police, District Khanna. She also filed a bogus complaint dated 19.04.2010 against the complainant and his family members in the office of DSP, Punjab Police, Khanna. In the said complaint, she levelled false allegations against the complainant party. In the said complaint, the accused also got recorded her statement on 27.04.2010. Vide inquiry dated 17.05.2010, the allegations levelled by the accused against the complainant and Constable Dimple were found to be untrue. It is stated that due to false allegations levelled by the accused, image and reputation of complainant in police department, relatives and general public has been lowered.

The learned trial Court, after discussing the evidence on record and while holding that one of the necessary ingredient of defamation i.e. publication of the defamed material is not proved, acquitted the accused of the charges framed against her vide judgment dated 13.11.2014.

I have heard learned counsel for the applicant and have

gone through the record.

Perusal of the judgment shows that the findings returned by the learned trial Court cannot be held as perverse or against the law. Nothing has been pointed out as to which evidence has been misread or which evidence has not been considered by the learned trial Court. The learned trial Court also held that complainant failed to prove the presence of the witnesses in the DSP office as the PWs have deposed that no notice has been received by them to appear before the DSP. The Court below also held that the complainant failed to prove the intention to cause harm which is the very foundation of the offence under Section 499 IPC. The complaints were moved only to DSP and not sent to the general public with the intention to lower the reputation of the complainant. The learned trial Court also relied upon the law laid down in **2002 (1) RCR (Criminal) Page 393**. From the perusal of the record, this Court finds that no illegality has been committed by the learned Court below while passing the impugned judgment nor the findings can be held as perverse. The findings are correct and as per evidence and law.

From the aforesaid discussion, no ground to grant leave to the applicant to file appeal is made out.

Therefore, finding no merit in the instant application, the same is dismissed.

12th October, 2015
mamta

(INDERJIT SINGH)
JUDGE