

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.8810 of 2014
and
Criminal Misc. No.A-399-MA of 2014

.....

Date of decision:7.12.2015

Lubhaya Ram

...Applicant

v.

Mukesh Kumar and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sunil Kumar Sharma, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.8810 of 2014:

For the reasons mentioned in the criminal miscellaneous application, the delay of 102 days in filing the application/appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-399-M A of 2014:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Mukesh Kumar etc.- respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 22.8.2013 passed by learned Judicial Magistrate Ist Class, Pathankot, vide which the complaint filed by the complainant has

been dismissed.

It is submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed on the grounds taken therein. It has been prayed that the application may be allowed and the leave to file appeal be granted against the judgment of acquittal dated 22.8.2013 passed by the learned Judicial Magistrate Ist Class, Pathankot.

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

From the record, I find that Lubhaya Ram filed complaint against Balram Rana, Mukesh Kumar, Paramjit Singh, Ram Ditta, Ashok Kumar, Gurdial Singh and Pawan Dev for the offences under Sections 500, 501, 502 and 120-B IPC. As per the complainant's case, he is working with Punjab State Electricity Board at RSD Shahpurkandi, Tehsil Pathankot since 1981 and is President of 'Karamchari Dal' and Senior Vice President of the said Dal of Punjab Raj Bijli Board. He is involved in social service towards the people of the area and fellow colleagues and got unblemished character and social status to his credit and commands a very good reputation. The accused are members of self-style 'Sanji Technical Workers Committee', Punjab Raj Bijli Board, RSD Shahpurkandi and Employees Federation, Punjab Raj Bijli Board, RSD Shahpurkandi. On 19.7.2001, Mehar Singh came to the house of the complainant and showed him the photocopy of the letter bearing No.2A bearing signatures of accused Gurdial Singh addressed to the Chairman, PSEB, Patiala, the contents of which are stated to be

defamatory in nature. It is further stated that another letter dated 30.8.2001 addressed to Deputy Chief Engineer, O&MRSD, PSEB Shahpur Kandi was also shown to him.

The learned Judicial Magistrate Ist Class after considering the evidence on record acquitted all the accused.

I have gone through the record specially the judgment passed by the learned trial Court dated 20.8.2013. The trial Court firstly held that a photo copy of the application, which is Ex.P.1, has been placed on record, but it has not been proved as per law. Neither any record of the Chairman, PSEB, Patiala, has been summoned nor any Clerk etc. produced to prove the original of Ex.P.1. This reasoning is as per law. If the original document has not been called or produced or proved, then it is to be proved by way of secondary evidence after taking the permission of the Court. This complaint is based on this Ex.P.1 and it has not been proved as per law. Further, the Court below held that this letter Ex.P.1 is only signed by Gurdial Singh. The names of other persons are already printed on the letter pad. The Court further held that if a complaint is sent to the Chairman only, then there is no publication of the defamatory material. This reasoning is also as per law. In no way, it can be held that this defamatory material has been published and defamed the complainant and lowered his reputation. The findings given by the Court below are correct, as per evidence and law. Nothing has been pointed out as to which material evidence has not been appreciated in right perspective or which material evidence has not been considered by the Court below. The findings given by the learned Judicial Magistrate Ist

Class, Pathankot, in no way, can be held as perverse.

Therefore, from the above, I do not find any ground to grant leave to file appeal. Hence, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

December 7, 2015.

(Inderjit Singh)
Judge

hsp