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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-540-MA-2014
Date of Decision : Sept. 15th , 2015

Rakesh Kumar .... Appellant

Versus

Asha Lata and others .... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr.Mukesh Yadav, Advocate,
for the applicant-appellant.

SHEKHER DHAWAN, J.

Present appeal against judgment of acquittal dated 27.1.2014 recorded by Sub Divisional Judicial Magistrate, Mohindergarh.

2. Learned counsel for the applicant-appellant has urged that accused persons were summoned for commission of offence punishable under Sections 499 and 500 of Indian Penal Code as there was sufficient material available on the file against them. Thereafter learned Magistrate fell in error while recording the judgment of acquittal and not taking into consideration the fact that the accused had accepted the resolution and the denial of candidature for the post of Lamberdar which clearly shows the intention of the accused. They had intentionally passed the resolution to defeat the rights of the applicant. So, the judgment of acquittal be set-aside and accused be punished according to law.

3. Having considered the submissions made by learned counsel for the applicant-appellant and perusal of record, it is evident that resolution, Ex. CW-1/B authorizing the Sarpanch of the village to initiate appropriate

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action against Rakesh Kumar was passed. The said resolution was sent to the Deputy Commissioner through Block Development and Panchayat Officer [BDPO].

4. Learned trial Judge rightly came to the conclusion that there was nothing on the file that there was mens-rea on the part of accused persons. The applicant-complainant is aggrieved of the fact that the resolution was passed which resulted in to defamation. Learned trial Judge rightly came to the conclusion that the same was forwarded to the Deputy Commissioner through the BDPO concerned and the said act was covered as per 8th Exception to Section 499 IPC which reads as under:-

> "Accusation preferred in good faith to authorized person - It is not defamation to prefer in good faith and accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation."

5. As regards to evidence available on the file, it may be noticed that all the witnesses are official witnesses except PW-1 and PW-3, who are formal. There is complete protection as per exception 8th to Section 499 IPC except for malicious imputation. There must be some intention to cause harm to the reputation of other which could be termed as defamatory and the same has not been proved in this case.

6. In view of the above, there is nothing calling for interference by way of appeal against acquittal in the present case. The present appeal is dismissed.

(SHEKHER DHAWAN)
JUDGE

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