

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-535-MA of 2015 (O&M)

Date of decision: August 10, 2015

Charanjit Kaur

...Applicant

Versus

Amrik Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mansur Ali, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Charanjit Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Amrik Ram and other respondents, challenging the order dated 20.12.2014 passed by learned Judicial Magistrate Ist Class, SBS Nagar in a complaint case filed by Charanjit Kaur under Sections 406 and 498-A IPC. Vide this impugned order dated 20.12.2014, learned JMIC, SBS Nagar discharged the accused by holding that there exists no ground for framing the charges against the accused. Against this order, an appeal has been filed along with the present application under Section 378(4) Cr.P.C.

At the time of arguments, learned counsel for the applicant argued that discharging the accused amounts to acquittal in summons case and on this point, cited the judgment passed by this Court in

CRR No.758 of 2001 titled as Ranjit Singh vs. Jugraj Singh and another, decided on 21.07.2009.

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

First of all, as argued by learned counsel for the applicant, the complaint filed by the complainant/applicant is warrant trial case and not summons case. The complaint is under Sections 406 and 498-A IPC and both the offences are punishable for imprisonment upto three years. Those cases are summons cases where the punishment is upto two years. Therefore, this complaint case cannot be held as summons case. Secondly, the judgment cited by the learned counsel for the applicant, admittedly relates to summons case. The argument is that in summons case, discharge of the accused amounts to acquittal and therefore, the present appeal has been filed. However, this argument has no merit because it is a warrant trial case and not summons case.

Therefore, the appropriate remedy available to the applicant is to file revision against the impugned order and not to file appeal. The appeal is not maintainable against the impugned order, therefore, question of granting permission under Section 378(4) Cr.P.C. does not arise.

In view of the above, the application under Section 378(4) Cr.P.C. as well as the appeal being not maintainable, stand dismissed.

August 10, 2015
Vgulati

(INDERJIT SINGH)
JUDGE