

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-572-MA of 2015

.....

Date of decision:24.9.2015

Satbir Singh

...Applicant

v.

Karam Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Kulvir Narwal, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Karam Singh, Ram Phal and Ashok Kumar-respondents seeking grant of leave to file appeal against the impugned order dated 9.2.2015 passed by learned Sub Divisional Judicial Magistrate, Meham, vide which the complaint filed by the complainant was dismissed.

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

From the record, I find that as per the impugned order dated 9.2.2015, the learned Sub Divisional Judicial Magistrate, Meham, on the basis of preliminary evidence and the report under Section 202 Cr.P.C. held that there is no sufficient ground for proceeding against the accused, hence

the complaint was dismissed.

A perusal of the impugned order dated 9.2.2015 shows that no summoning order has been passed by the Court below on the basis of preliminary evidence, rather, the complaint has been dismissed. As the accused have not been summoned, neither any charge was framed nor any trial was conducted etc., therefore, there is no question of acquittal of the accused/respondents. As the accused/respondents have not been acquitted because they were not summoned by the Court below, therefore, no appeal is maintainable. Rather, the criminal revision petition is maintainable.

Therefore, 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 along with the appeal are dismissed being not maintainable.

September 24, 2015.

(Inderjit Singh)
Judge

hsp