

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.11269 of 2015  
and  
Criminal Misc. No.A-607-MA of 2015 (O&M)

.....

Date of decision:17.9.2015

Narinder Kapoor

...Applicant

v.

Ram Kumar alias Ram Raj and another

...Respondents

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

.....

Present: Mr. K.D.S. Hooda, Advocate for the applicant.

.....

**Inderjit Singh, J.**

Cr. Misc. No.11269 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 45 days in filing the application seeking leave to file appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-607-MA of 2015 (O&M):

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Ram Kumar alias Ram Raj and Bimal Sumbli-respondents seeking grant of leave to file appeal against the judgment of acquittal dated 6.10.2014 passed by learned Judicial Magistrate Ist Class, Ludhiana.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment dated 6.10.2014 passed by learned Judicial Magistrate Ist Class, Ludhiana, which is likely to succeed on the grounds mentioned therein. It is also stated that there is sufficient evidence on record to prove the guilt against the respondents-accused, which has not been taken into consideration by the learned trial Court while passing the impugned judgment and thereby a great prejudice has been done to the applicant. It is further prayed that leave to file the appeal may kindly be granted against the impugned judgment dated 6.10.2014 passed by the learned Judicial Magistrate Ist Class, Ludhiana in criminal case No.369/1 of 13.6.2005 filed for the offence under Section 500 IPC.

The brief facts of the case are that Narinder Kapoor-complainant filed complaint against Ram Kumar alias Ram Raj and Bimal Sumbli, Bureau Chief, Ludhiana Tribune, Ludhiana-accused for the offence under Section 500 IPC. It is stated in the complaint that the complainant is a responsible businessman and is having good respect and reputation and status in the estimation of the public, relations, friends and colleagues. The complainant never indulged in any sort of bad activities and never committed any offence. Accused No. 1 got registered a totally false case FIR No. 487 of 2003 for the offence under section 302 IPC at Police Station Division No. 5, Ludhiana, against the complainant with a view to cause harassment and to lower the reputation of the complainant at the instance of his relations i.e. cousins Dalip Kumar and Shammi Kumar. After the investigation, the complainant was found innocent and cancellation report

has been filed, in which the accused Ram Kumar filed protest petition and the learned Additional Chief Judicial Magistrate, Ludhiana, vide order dated 11.10.2014 accepted the cancellation report by holding that it is a case of suicide and not homicide. Accused No.1 filed a revision petition against the order dated 11.10.2014 and the same was allowed by the Court of learned Additional Sessions Judge, Ludhiana, vide order dated 23.11.2014. Thereafter, the complainant filed a Criminal Revision No.624 of 2005 before this Court. On that day, counsel for accused No.1 appeared and vide order dated 24.3.2005, this Court stayed the operation of the order of issuing non-bailable warrants of the complainant. Accused No.1 in connivance with accused No. 2 knowingly and willfully got published a totally false news in Ludhiana Tribune dated 26.3.2005 with the heading “”Iron Broker’s murder”” arrest warrants issued. Accused No.1 fully knew the fact that the arrest warrant has already been stayed by the High Court vide order dated 24.3.2005 as that order was passed in the presence of accused No.1 and his counsel. In spite of getting the knowledge of staying of operation of issuing of non-bailable warrants, accused No.1 in connivance with accused No.2 got published a false defamatory news against the complainant in the newspaper with the sole motive to defame the reputation of the complainant in the eyes of the general public, his colleagues, friends, relatives and other known circle.

The learned Judicial Magistrate 1st Class, Ludhiana, vide judgment dated 6.10.2014 acquitted the accused.

I have heard learned counsel for the applicant and have gone

through the record.

From the record, I find that nothing has been pointed out at the time of arguments as to how the reasoning given by the learned Judicial Magistrate Ist Class, Ludhiana, in the impugned judgment is perverse or against the evidence. Nothing has been pointed out as to which evidence has been misread by the Court below. Nothing has been pointed out at the time of arguments as to which material evidence has not been considered by the Court below while passing the impugned judgment dated 6.10.2014. Rather, a perusal of the record specially the judgment shows that the complainant himself got examined witness Rajneesh Lakhanpal CW-5, correspondent of the Tribune, who has deposed during his cross-examination that accused has not directly given the news/information in question to him, rather, the papers regarding the same had been left at his office by the accused. It is further stated by the witness that due to holiday on 25.3.2005 i.e. Sunday, he was unable to get the news published and before inquiring regarding the status of the non-bailable warrants, he sent the information to the news department of Tribune for its publishing in the newspaper. The Court below also held that it is clear from the evidence placed on the record by the complainant himself that when the information was given to the news department, the non-bailable warrants were in existence and at that time the operation of the non-bailable warrants had not been stayed. The news item was published late in the newspaper as on 25.3.2005, there was Sunday. When the news was given to the news department, at that time the news was genuine and not a fabricated news.

The Court also held that no mala fide intention can be attributed to the accused. The Court also held that the testimony of witnesses examined by the complainant is not sufficient to establish that his image was lowered down by the actions of the accused. Otherwise also, the FIR has already been registered against the accused for the offence under Section 302 IPC regarding which the proceedings cancellation of the same etc. were pending. The order passed by the lower Court has been set aside by the learned Additional Sessions Judge and then against the order of the learned Additional Sessions Judge, the matter was pending before the Hon'ble High Court. So, in these circumstances, in no way, it can be held that this news report was published only for the purpose of defaming the petitioner and also it cannot be held that it was a false news when it was given to the news department of the newspaper. The findings given by the Courts below are correct, as per evidence and law and do not require any interference from this Court.

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, the same is dismissed.

September 17, 2015.

**(Inderjit Singh)**  
**Judge**

\*hsp\*