

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.19395 of 2015
and
Criminal Misc. No.A-955-MA of 2015

.....

Date of decision:21.12.2015

Manjit Sharma

...Applicant

v.

Ranjit Singh

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. A.D.S. Sukhija, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.19395 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 17 days in filing the criminal miscellaneous application seeking leave to file appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-955-MA of 2015:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Ranjit Singh-respondent seeking grant of leave to file appeal against the impugned judgment of acquittal dated 13.2.2015 passed by learned Judicial Magistrate Ist Class, Jalandhar.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment dated 13.2.2015 passed by learned Judicial Magistrate Ist Class, Jalandhar, which is likely to succeed on the grounds mentioned therein. The judgment of acquittal of the accused/respondent under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') has caused grave miscarriage of justice. Therefore, it has been prayed that the leave to file appeal be granted.

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

From the record, I find that Manjit Sharma-complainant filed complaint against Ranjit Singh under Section 138 of the NI Act. It is stated by the complainant that the accused and his brother-in-law are engaged in the business of Travel Agency and his brother-in-law is permanent resident of U.S.A. and assured the complainant that they will send him to abroad and in lieu of this they demanded ₹15 Lacs from him. The complainant handed over ₹7 Lacs to the accused on 3.9.2011 after withdrawing the same from his bank account No.8940 with Indian Overseas Bank, Doaba College, Jalandhar. Thereafter, on 6.9.2011, he gave another ₹6 Lacs after withdrawing the same from his Bank account along with cash of ₹2 Lacs. It is stated that the accused in order to discharge his legal and enforceable liability/debut towards the complainant, issued cheque bearing No.365305 dated 21.5.2012 for ₹15 Lacs. The cheque was presented for encashment but it was returned vide bank memo with the remarks "insufficient funds".

The cheque was again presented. Again it was returned unpaid with the remarks “refer to drawer”. Then legal notice was served. As the amount was not paid, therefore, the complaint was filed.

The complainant examined himself as CW-1 and one Gurvinder Singh as CW-2 and closed his evidence.

At the close of evidence, the accused was examined under Section 313 Cr.P.C. He stated that one Gurdeep Singh is a money lender and his father took some loan from him which was duly returned. However, he fabricated an agreement to sell dated 2.7.1998 alleged to have been executed by his father for selling his land in favour of said Gurdeep Singh and being influence with the local police, he moved false complaints against him and under the police pressure procured blank signed three cheques bearing cheques No.365303 to 365305 drawn on SBI Bank, Jandhu Singha in the month of January 2005 and also procured his signatures on the blank stamp papers signed by his father. It is further stated that said Gurdeep Singh knew that there are no funds in his account and as such Gurdeep Singh later on filed a civil suit for specific performance of the land inherited by him vide Civil Suit No.95 of 2008. The accused in written statement had already given the details of the said cheques retained by Gurdeep Singh and the number of this cheque in question was also mentioned in the written statement as well as in the judgment of that civil suit. It is also stated that the FIR regarding cheating, fraud etc. was also registered against the complainant. He also produced the record of the civil suit by examining DW-2, Clerk, Judicial Record Room.

The learned Judicial Magistrate Ist Class, Jalandhar vide judgment dated 13.2.2015 after appreciating the evidence acquitted the accused/respondent.

From the record, I find that at the time of arguments nothing has been argued as to which material evidence has not been considered and which material evidence has been misread by the Court. Nothing has been pointed out as to how the reasoning given by the learned Judicial Magistrate Ist Class in the judgment is perverse or against the evidence. The Court below after considering the evidence on record stated that though the amount of ₹6 Lacs were withdrawn from the bank, but this evidence nowhere shows that this amount was paid to the accused. Secondly, in the civil suit as argued in the year 2009 the accused had taken this plea in the written statement regarding procuring three blank signed cheques bearing Nos.365303 to 365305 under the police pressure from the accused. If this plea had been taken in the year 2009 in the written statement, which is also stated in the judgment of the Court, then the question of issuing the cheque bearing No.365305 on 21.5.2012 after about three years does not arise. The accused has raised the probable defence. There is no document to show that the amount of ₹7 Lacs, ₹6 Lacs and ₹2 Lacs in cash have been paid to the accused. The accused/respondent has also produced on record that the FIR regarding cheating etc. has been registered against the present complainant in another matter. The Court below has also taken into consideration all the facts that if the amount of ₹15 Lacs were paid to the accused/respondent as per the version of the complainant in the year 2011, but no such action has

been taken against the accused for not sending him to foreign country. The findings given by the learned Judicial Magistrate Ist Class, Jalandhar are correct, as per evidence and law. The evidence has been appreciated in the right perspective. In no way, these findings can be held as perverse or against the evidence or against the law.

Therefore, the judgment passed by the learned Judicial Magistrate Ist Class, Jalandhar does not require any interference from this Court.

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 21, 2015.

(Inderjit Singh)
Judge

hsp