

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-229-MA of 2013(O&M)
Date of decision: January 15, 2016

Jarnail Singh

...Applicant

Versus

Partap Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sumit Gupta, Advocate
for the applicant.

Mr.S.S.Behl, Advocate
for the respondents.

INDERJIT SINGH, J.

Applicant-Jarnail Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Partap Singh and other respondents, challenging the order dated 30.01.2013 passed by learned Judicial Magistrate 1st Class, Ludhiana, whereby accused-respondents were discharged of the charges.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that learned trial Court has given benefit of doubt to the accused-respondents on the ground that the prosecution has not been able to bring home the guilt of the accused beyond shadow of reasonable doubt. It is, therefore, prayed that special leave to file

appeal be granted.

Notice of motion was issued and learned counsel for respondents appeared and contested the application.

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

From the record, I find that the complainant has filed a complaint under Sections 414, 420 and 120-B IPC against the accused-respondents and the accused were summoned to face trial for the offence punishable under Sections 415, 420 and 120-B IPC i.e. in warrant trial offence. The complainant produced the evidence for the purpose of the charge. After scrutinizing the evidence, learned JMIC, Ludhiana, vide impugned order dated 30.01.2013 held that no prima facie case is made out against the accused. The liability of the accused is purely of civil nature and no criminal ingredient is involved in the same. Consequently, the accused were discharged in this case.

The perusal of the record shows that in this case, charges have not been framed. Rather, all the accused have been discharged. As the accused have not been acquitted in this case, therefore, question of filing the appeal against acquittal or filing of the application for granting leave to file appeal, does not arise.

Therefore, the present application under Section 378(4) Cr.P.C. is not maintainable and the same is dismissed.

January 15, 2016
Vgulati

(INDERJIT SINGH)
JUDGE