

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.A-483-MA of 2013(O&M)

Date of decision: July 11, 2016

Daler Singh

...Applicant

Versus

Baljit Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sapan Dhir, Advocate
for the applicant.

Mr.Satpal Singh, Advocate
for respondent No.1.

Mr.D.S.Malwai, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Applicant-Daler Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents Baljit Singh and Surinder Singh challenging the impugned judgment dated 14.03.2011 passed by learned JMIC, Malerkotla, whereby the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, further stated that in case, the leave to appeal is not granted, the applicant will suffer an irreparable loss. It is, therefore, prayed that leave to appeal be

granted.

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

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

As per the record, the complainant Daler Singh filed a complaint against accused Baljit Singh and Surinder Singh under Section 500 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Malerkotla, are as under:-

“2. In the brief the case of the complainant is that the complainant is a law abiding person and is resident of village Badechhe, Tehsil Malerkotla, Distt. Sangrur. He has retired as a teacher from Govt. Primacy School Mandian, Tehsil Malerkotla Distt. Sangrur on September 30,1997 and enjoys good reputation in the area. Surinder Singh accused no.2 is inimical to the complainant and he is close associate of Baljit Singh accused no.1, who was Incharge of Sirthla Beat comprising the Lassara Rajwaha located at village Badechhe by the side of the field of the complainant. Both of these accused tried to defame the complainant. Both of these accused tried to defame the complainant, accused Baljit Singh lodged false FIR No.13 dated 25-02-2004 u/s 379 IPC at PS Amargarh Tehsil Malerkotla in which he was posted as Incharge, he stated in the FIR that there was no old Kikar Tree no.21 standing on the bank of Lassara Raajwaha in the area of village Badechhe, which was property of the forest department Punjab. It was alleged in the FIR that when he was patrolling in the area of village Badechhe, he found that he above said Kikar Tree had been cut and its stem was standing. He further alleged that on enquiry, accused Surinder Singh told that the above said Kikar Tree had been cut on 17-02-2004 by the complainant along with Balbir Singh son of Kartar Singh, Kulwant Singh son of Daler Singh and Gurdarshan Singh son of Balbir Singh all residents of village Badechhe Tehsil Malerkotla and the same was taken away by them in tractor no.PJS 1908. The complainant was arrested by the police in the above said case on 26-2-2004 and was released on bail on 1-3-2004 in the sum of Rs.10,000/- with one surety. Then the local police submitted report under Section 173 Cr.P.C. in the court of JMIC Malerkotla and charge against the complainant and other three persons u/s 379 IPC was framed by court of Sh.Harjit Singh JMIC Malerkotla on 13-7-2004. The complainant and others filed Revision petition against the

order of framing charge against them but the same was dismissed by the court of Sessions Judge, Sangrur on 8-12-2004. The complainant and the other three persons filed quashing of FIR in Punjab and Haryana High Court. Hon'ble Mr. Justice Mehtab Singh Gill of Hon'ble High Court, vide his order dt. May 17, 2006 allowed the petition of the complainant and others and quashed FIR no.13 dt. 25-2-2004 PS Amargarh Tehsil Malerkotla. He also set aside all the consequential proceedings. On the basis of the order passed by the Hon'ble High Court of Punjab and Haryana, the court of Smt.Mandeep Pannu, the then Ld. S.D.J.M. Malerkotla discharged the complainant and other accused in the above FIR on 31-8-2006. Both the accused fully knew that the above said Kikar Tree was standing in Khasra no.323 situated in the area of village Badechhe Tehsil Malerkotla which is property of the complainant himself. Both the accused in furtherance of the common intention of the two, first got registered FIR no.13 dt. 25-2-2004 against the complainant and others and accused Surinder Singh in his statement under section 161 Cr.P.C. made on 25-2-2004 before ASI Surinder Kumar of PS Amargarh corroborated the version contained in the above said FIR. They also got news published in this regard in the Punjabi News Paper Jugbani and photocopies of the news item were widely distributed by the accused among the people to defame the complainant and others. As a result of false FIR lodged by accused Baljit Singh and by statement of accused Surinder Singh under Section 161 Cr.P.C. which was given wide publicity, hteh complainant has been lowered in the estimation of his friend and relatives and a number of persons have broken their relations with the complainant due to the allegations levelled by the accused, therefore, he has filed this complaint."

Learned Magistrate, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 14.03.2011.

From the record, first of all, I find that Baljit Singh was admittedly a Forest Guard at Forest Range Doraha, District Ludhiana and he got registered an FIR against the present applicant regarding cutting of *kikkar* tree from the forest land. From the evidence, it is clear that proceedings in that FIR were quashed by this Court. The complainant's case is that *kikkar* tree was in the khasra number owned by him.

As the FIR was got registered by Baljit Singh in performance of

his official duties, therefore, previous sanction under Section 197 Cr.P.C. was required in this case and learned Magistrate has discussed this legal position by citing the law. Therefore, no complaint lies against Baljit Singh, who is a Public Servant, without sanction under Section 197 Cr.P.C.

Qua Surinder Singh accused, there is no cogent evidence on record. The FIR was got registered by Baljit Singh. Statement of Surinder Singh respondent was recorded under Section 161 Cr.P.C. during investigation. There is no cogent evidence on record to show the publication of that statement under Section 161 Cr.P.C. to the general public for defaming the complainant. As already discussed, the news in the Newspaper was only regarding the FIR registered against the complainant and that report in the Newspaper was also not proved as per law by bringing journalist etc. Otherwise also, no enmity or motive of such a nature has been proved from which it can be held that the FIR in question was got registered with malafide intention. Even if, on demarcation, the *kikkar* tree was found in the land of the complainant, even then, in no way, it can be held that FIR was got registered for defaming the complainant.

In view of the above discussion, I find that the judgment passed by the Court below is correct and as per evidence and law. In no way, the findings can be held as perverse i.e. against the evidence and law. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Court below.

In view of the above discussion, I find that the findings have been given by learned JMIC, Malerkotla, while appreciating the evidence in right perspective. The impugned judgment dated 14.03.2011 passed by learned JMIC, Malerkotla, is correct, as per law and evidence and does not

require any interference from this Court.

Keeping in view above facts and circumstances, I find that no ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

July 11, 2016
Vgulati

(INDERJIT SINGH)
JUDGE