

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-520-MA of 2013 (O&M)
Date of decision: February 04, 2016

Inderjeet Singh

...Applicant

Versus

Bijender Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Verma, Advocate
for the applicant.

Mr.Sumit Gupta, Advocate
for the respondents.

INDERJIT SINGH, J.

Applicant-Inderjeet Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Bijender Singh and other respondents, challenging the impugned judgment dated 03.05.2011 passed by learned Judicial Magistrate Ist Class, Karnal, whereby the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that there being sufficient evidence on record which clearly proves beyond reasonable doubt that imputation against the applicant is per se defamatory and it would relieve the complainant of the burden to establish that such imputation has lowered him in the

estimation of right thinking members of the public, therefore, the indulgence of this Court is sought to set aside the impugned judgment. It is, therefore, prayed that leave to file appeal be granted.

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

Lower Court record was also requisitioned.

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

As per the record, the complainant Inderjeet Singh filed a complaint against accused Bijender Singh and eight others under Sections 499, 500, 501 and 34 IPC. As per complainant's version, he is engaged in the business of transport and is Director of Ithad Motor Transport Pvt. Ltd. Accused No.1 and 2 namely Bijender Singh and Om Parkash, filed a false complaint to the DGP, so assisted by accused Nos.3 to 8 and also a journalist accused No.9 Kushal Pal. The object of the accused was to defame respectable persons by using illegal means. It is further stated that the false complaint was marked to Flying Squad DGP Haryana for enquiry against the complainant. After getting this application marked from DGP, accused No.1 and 2 secured photocopy of the marked copy and circulated amongst the relatives, friends, respectable of the city and also the well wisher of the complainant. The circulation was done with an intention to lower the esteem of the complainant in the eyes of public.

After recording the evidence of the complainant and statement of accused under Section 313 Cr.P.C., learned Judicial

Magistrate Ist Class, Karnal, acquitted the accused-respondents vide impugned judgment dated 03.05.2011.

At the time of arguments, nothing has been argued as to how the findings given by the Court below are perverse or against the 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.

From the perusal of the record, especially the impugned judgment dated 03.05.2011, I find that complainant examined Head Constable Manjit Singh as CW-1, Hardev Singh, record keeper as CW-2 and complainant himself appeared in the witness box as CW-3 and also examined PW-4 Karam Singh. It is in the judgment that Karam Singh only private witness examined by the complainant, has not supported and corroborated his version and turned hostile. Even, nothing has come out in his cross-examination. The only uncorroborated statement of complainant remains against the accused. The Court below held that there is nothing on the record to show and prove that the marked complaint in question was circulated in the relatives or friends etc. The Court also held that no witness has come to support and corroborate that this defamatory material has been circulated and they came to know regarding the same, due to which the reputation of the complainant has been lowered in the society.

From the record, I find that filing of complaint to a public servant, in no way, amounts to publication of the defamatory material.

If the complaint is marked by the senior officer to some other officer for enquiry, even then, it cannot be held that this defamatory material has been published by the accused. The publication of the defamatory material is one of the most important ingredient, which has not been proved by the complainant by leading cogent evidence.

Furthermore, no person has come to the witness box to show that this defamatory material has been circulated and reputation of the complainant has been lowered in the society. Therefore, a reasonable doubt exists in the complainant's version.

From the record, I find that the findings given by learned JMIC, Karnal, are correct, as per evidence and law. In no way, the findings given by learned Court below, can be held as perverse. The impugned judgment dated 03.05.2011 passed by learned Judicial Magistrate Ist Class, Karnal, 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 to grant permission for leave to appeal and therefore, the present application stands dismissed.

February 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE