

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

CRM-A-1259-MA-2016 (O&M)

Date of decision : 16.08.2016

Ajit Singh

...Applicant-Appellant

Versus

Ravinder Kumar Kohali

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. J.B.S. Gill, Advocate
for the applicant-appellant.

JITENDRA CHAUHAN, J. (Oral)

This special leave to appeal has been filed against the impugned judgment dated 06.05.2016, passed by learned Judicial Magistrate First Class, Hoshiarpur, whereby the accused-respondent was acquitted of the charge framed against him in complaint under Section 500 of the Indian Penal Code (for short 'the IPC').

The learned counsel contends that it was the respondent, who had got published a news item in all the newspapers against the applicant-appellant and his family members making allegations of cheating and calling them cheats as the respondent got registered FIR No.109 dated 08.08.2007 under Section 420 IPC read with Section 34 IPC, which is a counter blast of the FIR No.419 dated 22.10.2005 registered under Sections 406 and 498-A IPC at Police Station City Hoshiarpur by the appellant's

daughter against the respondent.

I have heard the learned counsel and perused the entire record on file.

The allegation of the applicant-appellant is that the respondent, by publishing news item making allegation of cheating against the appellant and his family members, has defamed the appellant. However, he has not placed on record any cogent and convincing evidence to establish that the said news item was got published at the instance of the respondent. Complainant-Promila Devi in her cross-examination admitted that she did not enquire as to who had got the news item published in the newspaper. No newspaper editor has been examined by the complainant to enquire about the person or organisation who had got published the said news item. Daughter of the appellant has not been examined after framing of charges for the reasons best known to him. Therefore, intention on the part of respondent to lower or harm the reputation of the appellant has not been proved.

It is a settled law as has been held in ***C. Antony Vs. K.G. Raghavan Nair***, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Keeping in view the above, the finding of acquittal recorded by the trial court cannot be said to be perverse or contrary to the material on record. In fact, there is no infirmity in the reasoning assigned by the trial Court for acquitting the respondent. This Court feels that learned Judicial Magistrate First Class, Hoshiarpur, has passed the impugned judgment dated 06.05.2016, after appreciating the facts and circumstances of the present case and no other view is possible.

Accordingly, the special leave to appeal is declined.

Dismissed.

16.08.2016

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No