

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

**CRM No.A-1015-MA of 2015 (O&M)**  
**Date of decision: February 15, 2016**

Balwan Singh

...Applicant

Versus

Shishram Yadav

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Manoj K. Tanwar, Advocate  
 for the applicant.

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**INDERJIT SINGH, J.**

Applicant-Balwan Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Shishram Yadav, challenging the impugned judgment dated 25.03.2015 passed by learned Judicial Magistrate Ist Class, Mohindergarh, whereby the accused-respondent was acquitted.

It is mainly stated in the application that case of the applicant is good on merits and there is every likelihood for success of appeal and if the present appeal is not allowed, the appellant shall suffer great prejudice. It is, therefore, prayed that leave to file appeal be granted.

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

As per the record, the complainant Balwan Singh filed a

complaint against accused Shishram Yadav under Sections 353, 355, 506, 504, 499 and 500 IPC. As per complainant's version, he is working as a WPO in Public Health Department, Kanina. A residential quarter is also allotted to complainant in the premises of CHC, Kanina. Accused is also residing in the premises of CHC Kanina and quarter of complainant and accused are facing each other. It is further the case that accused had filed an FIR No.189 dated 22.08.2009 under Section 380 IPC against the complainant on false allegations regarding the theft of jewellery from his house. On enquiry conducted by DSP, Mahendergarh, the matter was found to be false and the complainant was discharged. It is further alleged that due to filing of false FIR, the complainant suffered a loss in his reputation. It is also alleged that accused started fighting with the complainant and gave him fist and slap blows and also threatened to kill him.

The accused was summoned under Section 500 IPC. The complainant examined himself as PW-1, his wife Kamlesh as PW-2 and PW-3 Govind Addl. Ahlmad and closed the evidence. On the other hand, the accused examined DW-1 Anjna Yadav, DW-2 Lekhram, DW-3 Anil Kumar, Assistant Complaint Clerk and DW-4 Jagdish Parsad, Clerk.

Learned Judicial Magistrate Ist Class, Mohindergarh, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 25.03.2015.

I have gone through the record, especially the impugned judgment passed by learned JMJC, Mohindergarh.

From the record, I find that the findings given by learned JMIC, Mohindergarh are correct, as per evidence and law. In no way, these findings can be held as perverse. 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.

The Court held that the complainant has failed to prove his case beyond reasonable shadow of doubt. The FIR was lodged by the present accused Shishram Yadav regarding theft from his house when he was away to his village. The perusal of the FIR shows that the accused has only shown his suspicion against the present complainant. During the investigation, the complainant was found innocent and discharged but the theft could not be traced and as argued, untraced report has been filed. Learned Magistrate held that there is nothing on the record to show that FIR has not been lodged in good faith. The Court further held that the complainant was not defamed in public but the accused had made complaint before SMO, after which FIR was lodged against the complainant. The Court below further held that except complainant and his wife, nobody appeared before the Court to support the contention of the complainant, which means that no evidence has been produced that his reputation has been lowered in the eyes of general public nor this fact has been proved that complaint was filed with malafide intention.

It is further held that till the decision of the complaint filed by present

complainant, the untraced report in the FIR case has not been accepted by the Court so far.

From the perusal of the record, especially the impugned judgment, I find that the findings given by learned JMIC, Mohindergarh are correct, as per evidence and law. In no way, these findings can be held as perverse.

In view of the above discussion, I find that the impugned judgment dated 25.03.2015 passed by learned JMIC, Mohindergarh, 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 15, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**