

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

CRM-A No.115-MA of 2015 (O/M)

Date of decision : May 27, 2016

Subhash Chand Gupta

..... Applicant

Versus

S.C. Machhral

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Yowan Sharma, Advocate for the applicant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

CRM-1928-2015

There is delay of 222 days in filing the application for grant of leave to appeal.

It is stated that earlier revision was filed before the Sessions Court. Therefore, the delay has occurred.

For the reasons mentioned in the application, delay of 222 days in filing the application for grant of leave to appeal is condoned.

Application stands disposed of.

Main Case

This order of mine shall dispose of application filed under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment of acquittal dated 16.01.2014 passed by Judicial Magistrate 1st Class, Panchkula.

Briefly stated that the present applicant filed a criminal complaint under Sections 500 and 506 IPC against respondent, wherein he alleges that he was the Member of Executive committee of Group House Society No.44, Sector 20, Panchkula (in short 'GHS-44'). He was also elected as Cashier of GHS-44, on 01.12.2004. It is stated that respondent filed complaint against him with a motive to harass him and harm his reputation. A complaint dated 17.01.2008 was made before the Superintendent of Police, Panchkula, in which allegations of misappropriation of funds and forgery were levelled. On inquiry, said complaint was found to be fake by the S.H.O., Police Station Sector 20, Panchkula. During investigation, SHO also obtained the report of Assistant Registrar, Cooperative Society. It was reported that the functioning of the society is being done according to rules.

Learned Magistrate found that the evidence adduced by the complainant is untrustworthy. Therefore, there is no ground to charge the accused and accordingly, the accused was discharged.

The original record was called for and examined.

I have heard learned counsel for the applicant and have also carefully gone through the case file.

It is contended that learned Magistrate while discussing the evidence has referred to the cross-examination of the complainant, in which he admitted some misappropriation of funds of the Managing Committee of GHS-44.

It is stated that there was general allegations against the society and no personal allegations against the complainant were made. The

complainant admitted that there was some tampering in the record of Managing Committee.

The learned Magistrate is of the view that it cannot be said that the allegations were levelled to harm the reputation of the present petitioner as the complaint was only regarding the functioning of Managing Committee. The complainant named two persons, namely Sanjeev Bansal and the present petitioner.

The lower court has taken one of the possible views. Therefore, it cannot be said that the judgment passed by the Magistrate is illegal or perverse. As such, there is no ground to interfere in the impugned judgment.

Accordingly, the present application for grant of leave to appeal is dismissed.

(KULDIP SINGH)
JUDGE

May 27, 2016
sarita