

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-128-MA of 2015

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Date of decision:19.1.2016

Deepak Chaudhary

...Applicant

v.

Surender Narang and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Rohan Sharma, Advocate for Mr. Vikram Singh, Advocate
for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Surender Narang etc.- respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 31.10.2014 passed by learned Judicial Magistrate Ist Class, Panipat, whereby the complaint filed under Sections 408, 420, 421, 422, 506, 148 read with Section 149 IPC has been dismissed.

It is submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It is further stated that the judgment of acquittal of accused persons was passed by learned Judicial Magistrate Ist Class, Panipat, without considering the facts and circumstances and without appreciating the evidence on record. The impugned judgment is not sustainable in the eyes of law and has caused the

grave miscarriage of justice. It has been prayed that this application may be allowed and leave to file appeal be granted.

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

From the record, I find that the complainant-Deepak Chaudhary filed complaint against Surender Narang, Brij Mohan Khurana and Naval Khawla for the offences under Sections 408, 420, 421, 422, 506, 148 read with Section 149 IPC. As per the complaint, the complainant is carrying on his business in the name and style of M/s Shiv Hari Textiles and is engaged in manufacturing of blankets, shawls and Lohi etc. It is also stated that the above accused No.1 is the agent of accused No.2 and accused No.2 is the Director of Bombay Golden Transport Private Limited having its office at Gaziabad and the complainant was having business relationship with accused Nos.1 and 2 and, therefore, he had booked blankets for transportation from Panipat to Munger, Bihar through above named accused persons, which were to be delivered to the proprietor of M/s Prem Handloom, Gulzar Posar, Munger (Bihar) bearing consignment Nos.117010 & 117011 for a sum of ₹8,770/- and ₹11,175/- respectively and thereafter he had booked blankets bearing consignment Nos.117023 and 117031 to the tune of ₹13,650/- and ₹11,665/- respectively i.e. he had booked a total consignment worth ₹45,220/- with the above named accused persons. It is stated that they have not paid the amount. Legal notice was issued. They have also been approached, but no payment was made.

Learned Judicial Magistrate Ist Class, Panipat, vide judgment

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dated 31.10.2014 after appreciating the evidence acquitted the accused and held that no offence is made out.

After hearing learned counsel for the petitioner as well as after going through the record, I find that a perusal of the facts of the case itself shows that the dispute between the parties is of civil nature regarding the business transactions regarding which the blankets etc. were sent to the accused persons and they have not made the payment. From the record, it is clear that no offence is made out. There are no allegations that the accused have cheated the complainant and having any intention to cheat him from the very first instance. There is nothing on record that any amount has been embezzled or they have committed breach of trust. The findings given by the Court below are correct as per evidence and law, which do not require interference from this Court. Nothing has been pointed out at the time of arguments as to which material evidence has been misread and which material evidence has not been considered by the Court in right perspective. Nothing has been pointed out as to how the findings given by the learned Judicial Magistrate Ist Class, Panipat, are perverse.

Therefore, I do not find any ground for grant of leave to file appeal against the impugned judgment passed by the learned Judicial Magistrate Ist Class, Panipat. Hence, finding no merit, the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal is dismissed.

January 19, 2016.

(Inderjit Singh)
Judge

hsp