

CRM-A-656-MA-2016

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

CRM-A-656-MA-2016 (O & M)

Date of Decision: 17.12.2016

Manpreet Kaur

... Applicant

Versus

Bhagwan Singh Chairman, Lovely Professional College and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Ram Kumar Chauhan, Advocate,
for the applicant.

INDERJIT SINGH, J.

CRM-11031-2016

This is an application for condonation of delay of 241 days in filing the application for leave to appeal.

Heard.

In view of grounds mentioned in the application, same is allowed and delay of 241 days in filing the application seeking permission to leave the appeal is condoned.

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Applicant-Manpreet Kaur has filed this application under Section 378 (4) of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') seeking permission for leave to appeal against respondents-Bhagwan Singh, Chairman, Lovely Professional College, Manjit Kaur and

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Dogar Singh, Vice-Chairman, Lovely Professional College, challenging the judgment dated 15.05.2015 passed by learned Judicial Magistrate Ist Class, Dasuya, in criminal complaint No.117 dated 18.12.2009, titled as 'Manpreet Kaur vs. Bhagwan Singh, Chairman, Lovely Professional College and others', filed under Sections 420 and 120-B of the Indian Penal Code (for brevity, 'IPC') vide which respondent Nos.1 and 3-accused were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that trial Court has misread the evidence produced by the applicant and ignored settled proposition of law. It is also stated that the impugned judgment passed by learned Judicial Magistrate Ist Class, Dasuya, acquitting respondent Nos.1 and 2, under Sections 420 and 120-B IPC, suffers from illegality and irregularity and thus the same deserves to be set aside. It is, therefore, prayed that leave to appeal may be granted.

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

From the record, I find that applicant-complainant, Manpreet Kaur filed a complaint against the above named respondents under Sections 420 and 120-B IPC. The brief facts of the case as noted down in the impugned judgment passed by learned Judicial Magistrate Ist Class, Dasuya, are as under:-

“Brief facts as averred in the complaint are that the complainant passed the 10+2 from the Punjab School Education Board, Chandigarh in the year 2009, the accused No.1 is the Chairman of Lovely Professional College and accused No.2 is the wife of accused No.1 and handled all the

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affairs of the institute, whereas accused No.3 is Vice Chairman of Lovely Professional College. That all the accused approached the complainant in May, 2009 and shown the advertisement stating that they are running professional courses institute under the name and style as the Lovely Professional Paramedical College Tanda and also gave allurement that the complainant should seek admission in BBA three years degree course. The complainant and his family member i.e. Rachpal Singh uncle of the complainant came in allurement of the accused and agreed to get admission for the complainant in the institute. The accused demanded and get the course complete for Rs.70,000/-. Then the complainant in the accompany of her uncle Rachpal Singh reached the institute Lovely Professional Paramedical College at Tanda on 08.06.2009 and paid Rs.25,000/- as a fees from the course and receipt was issued by the accused as a chairman and principal of the college. It was informed by the accused that the admission of the complainant has taken place. The complainant then continue to visit the premises of the college for about two months but there was no student nor there was any coaching classes. The accused then demanded more fee and the complainant again deposited Rs.20,000/- on 25.07.2009. After the deposit of second installment of fees the accused persons fail to provide any coaching or study to the complainant for completion of the courses. Then the complainant verified about the affiliation of the institute with some recognized board through her family members but she was surprised to know that there is no affiliation or recognition of the institute for the BBA courses. The complainant then requested the accused for return of money paid as fees to the institute but instead of returning the fees the accused started threatening to the complainant for dire consequences. Then the complainant filed written application to various authorities for taking action against the

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accused party herself as well as through Rachpal Singh uncle of the complainant on various dates alongwith affidavit. Lastly, the DSP Vigilance Bureau Punjab Hoshiarpur forwarded to the application of the complainant to SSP Hoshiarpur vide letter No.1567-68 dated 22.09.2009 for taking further action and the application further marked to Economic Cell, Punjab Police, SSP, Hoshiarpur. The complainant was called by the Economic Wing but no action has been taken till today. Hence, the present complaint.”

Learned Judicial Magistrate Ist Class, Dasuya, after appreciating the evidence, acquitted respondent Nos.1 and 3-accused vide impugned judgment dated 15.05.2015.

From the record, I find that learned Judicial Magistrate Ist Class, Dasuya has recorded the findings in the impugned judgment after appreciating the evidence in right perspective. At the time of arguments, nothing has been pointed out as to how the findings given by learned trial Court are perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by learned court below. Nothing has been pointed out as to what illegality has been committed by the court below while acquitting the accused.

First of all, there is nothing on record to show that the respondents had an intention to cheat the complainant from the very beginning. Secondly, complaint qua respondent No.2 has been dismissed vide order dated 10.07.2013 and charges have been framed against respondent Nos.1 and 3 on the basis of pre-charge evidence. Learned trial Court after discussing the evidence held that there is no evidence to show

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that Bhagwan Singh and Dogar were Chairman and Vice-Chairman, of the Lovely Professional College, respectively. Learned trial Court has further discussed the statement of complainant-Manpreet Kaur, who admitted that she had received books relating to business communications. She further admitted that documents Ex.CW 2/B and CW 2/C do not bear the signatures of either Dogar or Bhagwan Singh. She also admitted that since 25.07.2009 to 05.09.2009, she has been regularly going to the institute. She also admitted regarding attendance of class of principal management. She also stated that she had left the institute after she came to know that it is not affiliated. Learned trial Court after discussing the defence evidence held that the institute is duly affiliated. Learned trial Court discussed the evidence of DW 2 Baljit Kaur, who stated that ₹16,500/- were returned back to the complainant after she left the institute and rest of the amount was adjusted as registration fee, monthly fee, bus fare etc.

From the above discussion, I find that findings given by the trial Court are correct, as per evidence and law and, therefore, the same do not require any interference.

Therefore, finding no merit in the present application under Section 378 (4) Cr.P.C., the same is dismissed.

17.12.2016

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No