

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

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Criminal Misc.No.A-1880-MA of 2015 (O&M)

Date of decision: 25th July, 2016

Iqbal Singh

...Applicant

Versus

Bhagwant Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Gagandeep Singh, Advocate
for Mr. Amandeep Singh Manaise, Advocate,
for the applicant.

INDERJIT SINGH, J.

Criminal Misc.No.37875 of 2015

This is an application for condonation of delay of 292 days in filing the application for grant of leave to file an appeal.

Heard. For the reasons, mentioned in the application, the same is allowed. Delay of 292 days in filing the said application is condoned.

Criminal Misc.No.A-1880-MA of 2015

Applicant Iqbal Singh has filed the application under Section 378 (4) Cr.P.C. against respondent Bhagwant Singh and others, for grant of leave to file an appeal against the impugned judgment of acquittal dated 29.11.2014, passed by the learned Judicial Magistrate Ist Class, Batala.

It is mainly stated in the application that accompanying appeal has been filed which is likely to succeed. It is further stated that the findings of acquittal qua accused-respondents recorded by the learned trial Court are perverse and not based upon correct appreciation of evidence available on record. It is prayed that special leave to file an appeal be granted.

Applicant-complainant Iqbal Singh filed a complaint against Bhagwant Singh, Kuljinder Kaur and Tarsem Singh. Brief facts of the case,

as mentioned in the impugned judgment dated 29.11.2014, are as under:-

“Complainant filed the present complaint against the above named accused on the ground that he (complainant) have three children and owned small area of land and had no other source of income. His (complainant) wife Surjit Singh/Kaur is house wife. On 20.07.2003 accused persons had asked him to send him (complainant) to Spain and assured to arrange job for him and demanded Rs.3,00,000/-. He (complainant) asked the above said accused person that after few days, he will arrange for three lacs. On 01.08.2003, all the accused reached at his (complainant) house at about 10:00 AM and he handed over three lacs to them and demanded receipt from them then all of them told that they are working to send the persons to Spain but do not give in writing. They asked that their relatives are residing in Spain and from airport, they will take him with them and till the time he did not get a job, their relative will keep him in their house. Then in presence of his wife and sister-in-law Amarjit Kaur, he (complainant) handed over three lacs to accused. Accused arranged a visa of Malaysia for him and told him (complainant) that from Malaysia their relative will arrange further journey for him. On 28.09.2003 from Delhi Airport, the accused send him to Thailand and kept for one night there and told that on next day, they will send him to Malaysia. In next day, the relative of accused threatened him to kill and kept in diggy/dicky of car and then he was send to Malaysia in illegal manner and left there and did not send to Spain. He remained

there for four months and after getting money from his house, he came back to India. His health become bad and he remained ill for one month and then he met accused and asked them that they had not fulfilled their promise and after deducting the expenses incurred by him on sending him to abroad, they should return the amount, but accused linger on the matter on one pretext and the other. About four days back from filing of complaint, when he had gone to lodge complaint with police station Rangtar Nangal, police did not register the case. It is prayed that accused be dealt as per rules.”

The learned trial Court, after appreciation of evidence, acquitted the accused vide judgment dated 29.11.2014.

Aggrieved against the impugned judgment of acquittal, the applicant has preferred the instant application for grant of leave to file an appeal.

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

Perusal of the judgment shows that it is correct and as per evidence and law. The evidence has been appreciated in the right perspective. Nothing has been pointed out as to which material evidence has been misread and as to which material evidence has not been considered by the learned Court below. The learned trial Court has held that the complainant might come to India in the month of January, 2004 and remained ill for one month. He could have demanded money from accused in the month of February, 2004 but the complainant remained silent till the filing of the complaint for three years four months. He filed the complaint on

11.06.2007 and there is no explanation qua this long delay. The learned trial Court also held that it creates reasonable doubt about the truthfulness of complainant's case. The complainant has stated that he has arranged the money after mortgaging his one and half killa of land and some amount was borrowed from commission agent etc. but no evidence has been produced regarding the same. Learned trial Court further discussed the fact that complainant has admitted that FIR No.59 of 2007 was got registered by accused persons against him and his wife. He also admitted that he had filed the said complaint as counter blast against the accused. From the perusal of the impugned judgment, this Court finds that the findings returned by the learned trial Court are as per evidence and have been given after appreciating the evidence in the right perspective. In no way, it can be held that the findings returned by the learned Court below are perverse or against the evidence.

Therefore, finding no merit in the instant application, the same is dismissed.

25th July, 2016
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(INDERJIT SINGH)
JUDGE

Whether Speaking/reasoned

Yes

Whether reportable

No