

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.14644 of 2014
and
Criminal Misc. No.A-745-MA of 2014

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Date of decision:28.9.2016

Remal Dass

...Applicant

v.

Dina Nath and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Rohit Rana, Advocate for Mr. Kunal Dawar, Advocate for the applicant.

Mr. Chirag Kundu, Advocate for the respondents.

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Inderjit Singh, J.

Cr. Misc. No.14644 of 2014:

For the reasons mentioned in the criminal miscellaneous application, the delay of 8 days in filing the criminal miscellaneous application seeking leave to file appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-745-MA of 2014:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Dina Nath and others-respondents seeking grant of leave to file appeal against the impugned

judgment of acquittal dated 29.1.2014 passed by learned Judicial Magistrate Ist Class, Gurgaon, dismissing the complaint filed under Sections 211, 120-B and 34 IPC and acquitting the accused of the charges framed against them.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment dated 29.1.2014 passed by learned Judicial Magistrate Ist Class, Gurgaon, which is likely to succeed on the grounds mentioned therein. It has been further stated that the judgment of acquittal passed by the learned trial Court is based upon total misreading and mis-appreciation of evidence on records and the same cannot be sustained. Therefore, it has been prayed that the leave to file appeal be granted.

Notice of motion has been issued in this case.

Mr. Chirag Kundu, learned Advocate has put in appearance on behalf of the respondents and contested this application.

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

From the record, I find that Remal Dass-complainant filed complaint for the offences under Sections 211, 120-B read with Section 34 IPC against Dina Nath, Ranjeet Singh Yadav and Mukesh Kumar-accused/respondents. The brief facts as noted down by the learned Judicial Magistrate Ist Class, Gurgaon, in his judgment dated 29.1.2014, are as under:-

“The complainant has filed this complaint against the accused

persons under Sections 211, 120-B read with Section 34 IPC on the allegations that the complainant has inimical relations with his brother Dina Nath-accused No.1. It is further submitted that a false case FIR was lodged by accused No.2 on 11.5.2002 in P.S. City Gurgaon to the effect that the complainant caused the accident in which accused No.3-Mukesh Kumar received injuries on 17.4.2002. All the accused hatched a conspiracy to involve the complainant in a false case u/ss 279/337 IPC. It is alleged that probably Mukesh received injuries in some hurt case or otherwise. Later on Mukesh also filed a claim case which was later on withdrawn by him. The investigation in case FIR No.372 dated 11.5.2002 was conducted by the Police and same was found false by Inspector Attar Singh. On these grounds, the complaint has been filed.”

I have gone through the record specially, the judgment passed by the learned Judicial Magistrate Ist Class, Gurgaon. The Court below after appreciating the evidence in right perspective acquitted the accused/respondents.

From the record, I find that this complaint has been filed on the ground that a false FIR was lodged by accused No.2 on 11.5.2002 at Police Station City, Gurgaon for the offences under Sections 279 and 337 IPC by stating that Mukesh received injuries on 17.4.2002. The investigation was conducted and the same was found false in the year 2002 and the FIR was cancelled as per cancellation report Ex.P3. The present complaint had been

filed on 16.3.2010. The offences under Sections 279 and 337 IPC are punishable for the maximum sentence of six months. Therefore, as per Section 211 Cr.P.C. the maximum sentence in this case can be passed upon the accused only upto two years. As per Section 468 Cr.P.C, where the offence is punishable with imprisonment for term exceeding one year but not exceeding three years, the limitation period is three years. This complaint has been filed after about 8 years, which is clearly time barred and the cognizance cannot be taken. Therefore, without discussing the other facts of the case only on this ground the accused were entitled to acquittal.

The findings given by the learned Court below are correct as per evidence and law and do not require any interference from this Court.

Therefore, from the above, I do not find any ground to grant leave to file appeal. Hence, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

September 28, 2016.

(Inderjit Singh)
Judge

hsp

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