

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.39157 of 2016
and
Criminal Misc. No.A-2185-MA of 2016

.....

Date of decision:3.3.2017

State of Haryana

...Applicant

v.

Sachin Chauhan

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. B.S. Virk, Deputy Advocate General, Haryana for the
applicant-State.

.....

Inderjit Singh, J.

Cr. Misc. No.39157 of 2016:

For the reasons mentioned in the criminal miscellaneous application, the delay of 69 days in filing the appeal along with application seeking leave to appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-2185-MA of 2016:

The applicant-State has filed this criminal miscellaneous application under Section 378(3) Cr.P.C. against Sachin Chauhan-respondent seeking grant of leave to file appeal against the impugned

judgment of acquittal dated 10.6.2016 passed by learned Additional Sessions Judge, Ambala, vide which the accused/respondent has been acquitted of the charge levelled against him in FIR No.0339 dated 24.11.2015 registered for the offence under Section 379-A IPC at Police Station Mahesh Nagar, Ambala.

It has been mainly submitted in the application that the applicant-State is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It has been stated that the impugned judgment of the learned lower Court is contrary to law and facts and the same is not sustainable in the eyes of law. It has been stated that the judgment of acquittal of the accused/respondent for the offence under Section 379-A IPC has caused grave miscarriage of justice. It has, therefore, been prayed that this application seeking leave to file appeal be allowed and leave be granted to the applicant-State to file appeal.

From the record, I find that FIR No.0339 dated 24.11.2015 was registered against the accused for the offence under Section 379-A IPC at Police Station, Mahesh Nagar, Ambala. The brief facts as mentioned in the judgment dated 10.6.2016 passed by Additional Sessions Judge, Ambala, are as under:-

“The case of prosecution as unfolded by complainant Shashi Aggarwal, in her complaint, Ex.P.9 is as under:

“She is posted as Manager in Oriental Bank of Commerce, Umri. On 24.11.2015, she was coming towards her

house, on foot, from Guru Gobind Singh Chowk. At about 6.20 p.m., when she reached near Anita Bhushan Hospital, there was darkness, then from behind, a thin boy came on a scooter and gave her a push, due to which she fell down and snatched her bag containing cash of about Rs.10,000/-, one mobile Make Micromax Co. having SIM No.9416551835, credit card of SBI, Bus pass of Haryana Roadways from Ambala Cantt. to Umri and bank keys and prayed for taking legal action against her.

On the basis of this statement, present case was got registered against the accused and investigation was conducted by ASI Ram Singh. During investigation, spot was inspected and statements of the witnesses were recorded. Thereafter, investigation of this case was handed over to CIA Staff, as per the directions of higher officers. Thereafter, investigation was conducted by SI Daya Kishan. Accused was arrested on 4.1.2016 and accused had suffered a disclosure statement regarding the present incident and in pursuance of his disclosure statement, he got recovered the case property. Motorcycle bearing registration No.HR-99 WPT 6601 make Honda CB Shine, which was used in this incident, was also recovered by the Police, which was taken into police possession vide separate recovery memo. Spot was inspected. Statements of witnesses were recovered. Memo of identification of case property was prepared. On completion of investigation, challan

was submitted in the Court against the accused for trial.”

The learned trial Court after appreciating the evidence acquitted the accused.

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

The findings given by the trial Court are correct as per evidence and law and the same can not be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread by the Court below and as to which material evidence has not been considered by the Court below.

A perusal of the record shows that the complainant-Shashi Aggarwal while appearing as PW-4 had failed to prove the identity of the accused. She stated that she cannot say surely whether the accused present in the Court had caused the occurrence. Even she could not tell the make of two-wheeler whether it was a scooter or a motorcycle. She stated that the occurrence took place on 24.11.2015 at about 6.15/6.30 p.m., regarding snatching of her purse. She stated that at that time it was dark. Even in the FIR she has nowhere stated that she had seen the accused from the face and can identify the accused if brought before her.

Therefore, in view of the fact that the identity of the accused has not been established, a reasonable doubt exists in the prosecution version and the accused has been rightly acquitted by the trial Court.

Therefore, I do not find any ground to grant leave to file appeal.

Consequently, finding no merit in the criminal miscellaneous application

filed under Section 378 (3) Cr.P.C. seeking leave to file appeal, the same is dismissed.

March 3, 2017.

(Inderjit Singh)
Judge

hsp

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