

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

CRM No.A-1027-MA of 2015 (O&M)
Date of decision: September 20, 2017

M/s Jain Rice Mills

...Applicant

Versus

M/s B.G.Rice and General Mills and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the applicant.

Mr.P.S.Ahluwalia, Advocate
for respondents No.1, 2 and 5.

Ms.Kaavya Jariyal, Advocate for
Mr.B.S.Jaswal, Advocate
for respondents No.3 and 4.

INDERJIT SINGH, J.

CRM No.20144 of 2015

Heard.

For the reasons mentioned in the application, the same is
allowed. Delay of 512 days in filing the application seeking leave to appeal,
is condoned.

CRM No.A-1027-MA of 2015

Applicant-M/s Jain Rice Mills has filed this application under
Section 378(4) Cr.P.C. seeking permission for leave to appeal against M/s

B.G.Rice & General Mills and other respondents, challenging the order

dated 30.10.2013 passed by learned Sub Divisional Judicial Magistrate, Baba Bakala, vide which the respondents have been discharged.

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, therefore, prayed that leave to appeal be granted.

Notice of the application was issued. Learned counsel for the private respondents appeared and contested the application.

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

From the record, I find that a complaint was filed by M/s Jain Rice Mills against M/s B.G. Rice & General Mills and other accused under Section 420 IPC. After summoning and appearance of the accused, the case was fixed for pre-charge evidence. The complainant did not turn up in person nor there is any pre-charge evidence available and learned SDJM, Baba Bakala, vide impugned order dated 30.10.2013 closed the pre-charge evidence of the complainant as costs of ₹1000/- was also not paid it being last opportunity and the accused were discharged and charges were not framed against the accused.

Aggrieved from the order dated 30.10.2013, present appeal along with application for grant to leave has been filed.

The perusal of the record shows that it is a warrant trial case and the accused have been discharged and charges have not been framed. The discharge in the warrant trial case, in no way, amounts to acquittal of the accused. When the accused have not been acquitted, then the filing of appeal against acquittal is not maintainable. When the appeal is not

maintainable, therefore, question of granting leave to appeal against

acquittal does not arise. Against the impugned order, only revision petition is maintainable.

In view of the above discussion, the present application stands dismissed being not maintainable.

September 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No