

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-A 1372-MA-2014 (O&M)

Date of Decision: 24.10.2017

Parsu Ram

..Applicant-appellant

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR JUSTICE RAMENDRA JAIN

Present: Mr. Krishan Singh, Advocate, for the applicant-appellant

RAMENDRA JAIN. J

CRM No.26610 of 2014

1. Prayer through this application under Section 5 of the Limitation Act has been made for condonation of delay of 700 days in filing the instant appeal.

2. It has been averred that after passing the judgment of acquittal dated 21.07.2012 by the trial court, the applicant preferred an appeal before the learned Sessions Judge, Yamuna Nagar at Jagadhri, which, vide judgment dated 04.06.2014 of the first appellate court, was dismissed being not maintainable.

3. Learned counsel for the applicant-appellant contends that since the applicant chose a wrong forum of filing the first appeal without adhering to the provisions of Section 378 of the Code of Criminal Procedure, which prescribes a revision before this court against the judgment of acquittal in a complaint case by the trial court, was due to ignorance of law, therefore, the application for condonation of delay of 700

days may be allowed, inasmuch as delay in filing the instant appeal before this court is neither intentional nor deliberate, rather had occurred on account of the aforesaid bona fide reason.

4. After giving thoughtful consideration to the submission made by learned counsel for the applicant-appellant, I find the instant application completely devoid of any merit, inasmuch as ignorance of law is no excuse. Much water has already been flown. Time has come to deal with such type of alleged ignorance of law with severe hands. Even otherwise, it is well settled by now that delay of 700 days in filing the appeal, in the fitness of the things, is not liable to be condoned, in view of the fact that on merit also, there is no substance in the appeal. Therefore, both, application for condonation of delay as also the application under section 378 (4) of the Code of Criminal seeking leave to appeal from the judgment of acquittal are dismissed. However, in the interest of justice, the appeal is dealt with on merits.

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5. Briefly stated, Anju Bala, daughter of respondent nos. 2 and 3 ran away from the house in the second week of July, 2006 without intimation to them with an unknown person. Consequently, respondent nos. 2 and 3 filed a complaint before the Superintendent of Police against the complainant and his son Ashok Kumar for taking away their daughter with the help of one Gurcharan and Kamla. Consequently, the police visited the house of the applicant many a times and harassed him, but finally, found the applicant and his son innocent. The things did not rest here. Respondent nos. 2 and 3, thereafter filed a false complaint before the trial court against the applicant and his son. During the pendency of the same, Anju Bala, their

daughter, was got recovered and produced before the court, where, she testified that she had gone with one Bengali to Delhi and then to Bengal. The applicant or his son was not responsible for the same as they never took her away, inasmuch as she had gone at her own free will. Consequently, the complaint of respondent nos. 2 and 3 was dismissed on 09.08.2006.

6. Being aggrieved with the aforesaid conduct of respondent nos. 2 and 3 in fling a false case against the applicant and his son before the police and then in the court, the applicant filed a complaint against respondent nos. 2 and 3 under sections 500/504 and 506 read with section 34 IPC on the grounds that their above illegal action had brought bad name to them, they were condemned and looked down by friends, relatives and public. Prestige and honour of the applicant and his son had also lowered down in the society. Still, respondent nos 2 and 3 used to abuse the applicant and his family in the presence of many persons, namely, Vindhyanchal, Ram Avadh, Harnek Singh, Digambar Singh, Ramker and Shiv Chand etc. as mentioned in the complaint.

7. After recording preliminary and in pre-charge evidence, respondent nos. 2 and 3 were charge sheeted under sections 500 and 506 IPC. On conclusion of trial to the satisfaction of the parties and hearing arguments, the trial court dismissed the complaint of the applicant vide impugned judgment dated 21.7.2012, resulting in acquittal of respondent nos. 2 and 3.

8. Being aggrieved, the applicant-appellant preferred an appeal which, too was dismissed being not maintainable vide judgment dated 04.06.2014 of the first appellate court.

9. Learned counsel for the applicant-appellant contends that the

impugned judgment of the trial court is based on conjecture and surmises. The learned trial court did not appreciate that on the false complaint of respondent nos. 2 and 3, the applicant and his son were beaten up by the police, thereby lowering down their reputation in the eyes of the society and the relatives.

10 After giving thoughtful consideration to the submissions made by learned counsel for the applicant-appellant, the application, being without any merit, fails and is liable to be dismissed for the reasons to follow:-

11 So far as the contention of the learned counsel for the applicant-appellant that the applicant and his son were beaten up by the police, on the basis of a false complaint made by respondent nos. 2 and 3, thereby lowering down their reputation in the eyes of society, is concerned, this court is of the view that the action of respondent nos 2 and 3 in making complaint to the higher authorities of the police and the court, can not at all be said to be erroneous or illegal, inasmuch as their daughter was, in fact, missing from the house. For this bona fide reason, it was obligatory on the part of the parents to report the matter to the concerned higher authorities or file a complaint before the court by resorting to the legal remedy available under the statute. Therefore, in my considered opinion, this court does not find any mala fide intention on the part of respondent nos 2 and 3 to move a false complaint or malign the reputation of the complainant in the eyes of the society. The trial court, while dealing with this contention elaborately giving sound reasoning therein, has made observations in para nos 20 and 21 of its judgment dated 21.7.2012, which are reproduced as under:

“20As far as to the extent of defamation, the accused had

made complaint in former complaint by registering FIR and if it is presumed that abusive language has been used by the police and the complainant was disowned by the society, in that way also if the complaint was based on the bona fide intention and good faith. The remedy which was available in such sensitive situation was legal and in good faith. The case of the accused is defended by the exception 8 of Section 499 of Indian Penal Code. “

“21. The allegations made by the accused were made in good faith and with a bona fide intention. Though the daughter of the accused was found missing from the house but it was a true fact, on the basis of which accused filed a complaint which was in a good faith. The complaint filed by the accused was not false and it was not with any mala fide intention or to harm the reputation of the complainant.”

12 The observations made by the trial court referred to hereinabove, in the considered opinion of this court, cannot at all be said to be erroneous that may warrant interference by this court.

13 In view of the foregoing reasons, I do not find it a fit case to grant leave to the applicant to file appeal against the judgment of acquittal dated 21.07.2012 of the trial court. Therefore, leave to appeal is declined. Accordingly, CRM-A-1372-MA of 2014, being without any merit, fails and is dismissed.

24th October, 2017
VK

(RAMEDNRA JAIN)
JUDGE

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether Reportable: | Yes/No |