

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

CRM-A-852-MA of 2016.

Decided on:-28.08.2017.

Lt. Col. Ramotar Singh Yadav (Retired).

.....Applicant.

Versus

Ishwar Singh Yadav.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Mandeep Kaushik, Advocate for
Dr. Kuldip Singh Yadav, Advocate
for the applicant.

HARI PAL VERMA, J.

The applicant has filed the present application under Section 378(3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 18.02.2016 passed by learned Additional Chief Judicial Magistrate, Rewari, whereby the respondent was acquitted of the charge framed against him in criminal complaint under Section 500 IPC filed by the complainant (applicant herein).

Briefly stated, it is the case of the applicant that respondent Ishwar Singh Yadav had given a false complaint against the applicant in various departments i.e. Inspector General of Police, Superintendent of Police, Rewari, Income Tax Authority, HUDA Gurgaon and C.D.A. Pune-1. In the said complaint, the respondent had alleged that the applicant is having income from the Armed Forces only as a pensioner. However, the applicant had purchased various properties including agriculture land and a flat. Besides

this, the applicant has a number of bank accounts in various banks i.e. Punjab National Bank, State Bank of India and Syndicate Bank. He has also lent more than Rs.20 lakhs to various persons and is in possession of 25 Kgs gold and 250 Kgs silver ornaments. He is also having several valuable goods like original Pashmina shawls and old historical articles removed from the various historical places in India. An FIR No.112 is also pending against the applicant under Sections 420/467/468/469/471 IPC for committing fraud by using the letter head of a Major of the Indian Army. In the complaint, it was further alleged by the respondent that all the aforesaid assets are owned by the applicant and investment of Rs.2 crores was made by him without explaining the source of income. As such, the applicant has concealed his income and necessary action be taken against him.

The case of the applicant is that by way of aforesaid false complaint, the respondent had tried to project the applicant as if he is a corrupt and dishonest person as he collected wealth beyond his known sources. The allegations made by the respondent against the applicant are false. By way of the false complaint, the reputation of the applicant has been lowered by the respondent. The allegations have been made by the respondent with an intention to harass, humiliate, torture and defame the applicant in the eyes of his relatives, friends and public at large. The respondent had also circulated the copy of false complaint to numerous persons including Vikash Yadav, Girish Bhardwaj, and Sube Singh.

After recording the preliminary evidence, the respondent was summoned to face trial under Section 500 IPC by learned trial Court vide order dated 09.05.2013. Vide order dated 04.07.2014 passed by the trial

Court, the respondent was also charge sheeted under Section 500 IPC, to which he did not plead guilty and claimed trial.

After considering the evidence produced on record and hearing arguments of both the sides, learned trial Court vide judgment dated 18.02.2016 acquitted the respondent of the charge framed against him.

Aggrieved against the aforesaid judgment, the applicant-complainant has filed the present application under Section 378(3) Cr.P.C. for grant of leave to appeal.

Learned counsel for the applicant-complainant has argued that on the basis of false complaint made by the respondent to various authorities, the reputation of the applicant has been lowered down in the eyes of the society. In order to prove his case, the applicant himself appeared in the witness box as PW3 and examined Girish Bhardwaj, Ex. Parshad, Municipal Committee as PW1 and Vikas Yadav as PW2. From the deposition of the applicant as well as other two witnesses examined by the applicant, a case against the respondent under Section 500 IPC is made out, but learned trial Court has failed to appreciate the testimony of the applicant and his witnesses and wrongly acquitted the accused. He has prayed for setting aside of the impugned judgment of acquittal and has prayed for conviction and sentence of the respondent under Section 500 IPC.

I have heard learned counsel for the applicant-complainant.

The case of the applicant-complainant is that the respondent-accused has made false complaint against him to various authorities i.e. Inspector General of Police, Superintendent of Police, Rewari, Income Tax Authority, HUDA Gurgaon and C.D.A. Pune-1 alleging therein that the

applicant, without having sufficient source of income, has purchased a lot of properties, possessing 25 Kgs gold and 250 Kgs silver ornaments. The applicant has purchased these assets and properties in the last six years. The respondent has also made false allegations that the applicant is dealing in sale and purchase of arms and ammunition without any authority. As such, a false complaint was made by the respondent just to tarnish the image of the applicant-complainant. Therefore, the respondent-accused deserves to be convicted for the offence made out in the complaint.

Having heard learned counsel for the applicant-complainant, this Court finds that there is no illegality in the impugned judgment dated 18.02.2016 passed by learned Additional Chief Judicial Magistrate, Rewari, whereby the respondent-accused was acquitted of the charge framed against him. The allegation against the respondent is that he had sent a false complaint Ex.PW2/A to various authorities i.e. Inspector General of Police, Superintendent of Police, Rewari, Income Tax Authority, HUDA Gurgaon and C.D.A. Pune-1. But none of the officials of the aforesaid departments was examined by the applicant in the case. Therefore, in the absence of examination of any official witness from the aforesaid departments, the complaint filed by the applicant-complainant has rightly been dismissed by learned Magistrate.

In support of his case, the applicant has examined Girish Bhardwaj, Ex. Parshad, Municipal Committee as PW1. This witness in his examination-in-chief has deposed that he has seen one complaint in the office of Municipal Committee, Rewari given by the respondent-accused against the applicant-complainant. But at the same time, in his cross-examination, he has

shown complete ignorance about the date, time and month when he had seen such complaint in the office of Municipal Committee. Therefore, no weightage can be given to the testimony of PW1.

Similarly, Vikas as PW2 has also shown ignorance about the date and time when he had noticed the complaint in HUDA office. Interestingly, this witness is brother-in-law of the younger son of the applicant. Therefore, he is an interested witness and no reliance can be placed on his testimony.

The applicant-complainant has failed to show any misreading of evidence by learned trial Court and has not been able to point out any legal error in the judgment under challenge which may warrant interference by this Court. When no evidence to connect the respondent-accused with the alleged crime is available on record, no case is made out for interference in the impugned judgment of acquittal passed by the trial Court.

Accordingly, the present application, being devoid of any merit, is dismissed. Leave to appeal is declined.

August 28, 2017

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No