

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

CRM No.A-1899-MA of 2015 (O&M)

Date of decision: February 15, 2017

Amrinder Singh

...Applicant

Versus

Mrs.Prem Deep Sadhrao

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.K.S.Nalwa, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Amrinder Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Mrs.Prem Deep Sadhrao, challenging the impugned judgment dated 31.08.2015 passed by learned Judicial Magistrate Ist Class, Chandigarh, vide which the accused-respondent was acquitted.

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.

As per the record, the complainant Amrinder Singh filed a complaint against accused Mrs.Prem Deep Sadhrao under Sections 499 and 500 IPC. The averments of the complaint as noted down in the judgment passed by learned JMIC, Chandigarh, are as under:-

a government servant and posted as Assistant Commissioner, Excise and Taxation, Ludhiana. The complainant averred that accused is the wife of one of his brother namely J S Sadhrao. The father of the complainant died in the year 1980 and after his death, the complainant is discharging his duties honestly and sincerely. The husband of the accused was working as Tehsildar/Consolidation Officer in the Revenue Department, Punjab, He was appointed as Naib Tehsildar on compassionate grounds after the death of his father, but because of his misdeed and misconduct, he was dismissed vide order dated 01.01.2002 and a case U/S 419/420/467/471/120-B IPC was registered against him and he also remained behind bars and he also escaped from police custody on 20.04.2003 and then surrendered in the Court. As such, he was dismissed from service w.e.f 01.01.2002. The accused and her family members are jealous of the prosperity and are not happy over the distribution of the family property by the mother of the complainant, who is still living with the complainant.

2. The complainant further averred that on 23.07.2007, the accused gave a complaint to the Inspector General, Vigilance Bureau (Punjab), Sector 17, Chandigarh against the complainant and has levelled the allegations against the complainant that the complainant has amassed wealth more than his known sources of income. Certain properties which were shown in the said complaint were never owned by the complainant, but yet in order to tarnish the image of the complainant and to affect the reputation of the complainant, the accused made this complaint. Thereafter the complainant was called by the police and the complaint was marked to Deputy Superintendent of Police, Vigilance, Patiala where the complainant filed repeated reply dated 29.01.2004 along with 129 pages of enclosures, depicting the sources from where the said property has been purchased and how the same has been purchased. The complainant has categorically stated in his reply that he has no farm house anywhere in India, whereas the perusal of the complaint shows that the allegations against the complainant are that he has a farm house near Patiala and the exact particulars of the farm house are known to Sh. Ashu Bajaj and P K Grover, property dealers. But the said property dealers have sworn the affidavits that the complainant has no farm house anywhere in India. The complainant further submitted that before filing this complaint, the accused filed a complaint on similar facts on 12.05.2003. After the Vigilance Bureau started enquiring into the case, the statement of the complainant were recorded. It started affecting the reputation of the complainant in the eyes of the right thinking members of the society. The colleagues of the complainant relations and subordinates started looking at the complainant in a manner as if the complainant is a thoroughly corrupt man and has ill gotten money. Few of the friends of the complainant started

maintaining distance from the complainant and consequently, the complainant was being treated as shun and avoided person in the eyes of right thinking members of the society. During the course of inquiry, the complainant suffered lot of humiliation at the hands of his colleagues, police officials and his subordinates from where the vigilance were taking records. Earlier complaint filed by the accused on 12.5.2003, after thorough investigation was filed. The complainant further stated that the aforesaid complaint was filed by the Vigilance Bureau, Punjab on 09.06.2008 as it was found that the assets so mentioned in the complaint are either made out of the known sources or that no such assets belongs to the complainant. Hence, the present complaint as the accused by filing the false complaint, has tarnished the reputation of the complainant in the eyes of his colleagues, friends, relatives and subordinates. Hence, the present complaint.”

Learned JMIC, Chandigarh, after appreciating the evidence, dismissed the complaint and acquitted the accused-respondent.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

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

From the record, I find that a complaint was made by the accused to the Inspector General, Vigilance Bureau, Punjab against the complainant and has levelled allegations against the complainant that the complainant has amassed wealth more than his known sources of income. The filing of a complaint made to a higher officer or competent authority does not amount to publication of defamatory material. It is necessary to prove that the accused has made defamatory statement, which has been published before the general public and due to that the reputation of the complainant/defamed person has been lowered in the eyes of general public etc. Mere filing of an application to competent authority does not amount to

the eyes of general public because it is for the competent authority to look into the complaint or not.

The perusal of the record shows that no publication of the defamatory material has been made by the accused. It is argued that though in the complaint there is no mention regarding publication of the material but the PWs have deposed qua the same. It will be treated as material improvement by the witness regarding defamatory publication which is not mentioned in the complaint. Furthermore, as per the complainant version, the accused gave one complaint to Inspector General, Vigilance Bureau Punjab on 12.05.2003 and after that, she moved another complaint to Vigilance Bureau on 23.07.2007. The said complaint was filed on 09.06.2008. It is the case that moving of these complaints to IG, Vigilance Bureau, Punjab, has caused defamation to complainant. Both these complaints have been filed which were investigated by the senior officers.

Furthermore, learned Magistrate has discussed the statement of CW-1 Narinder Kumar Katwal, who stated that accused came to him and told about this. On the same day, he went to the house of the complainant and narrated him that his brother and his wife had told him that they had made a complaint to Vigilance Department against the complainant. On this, the complainant told him that as and when an intimation from Vigilance Department will come, he will appear before the said officer. It is also stated that said complaint was filed by the Vigilance Bureau. The Court below held that this evidence itself shows that witness did not come to know regarding the contents of the complaint, therefore, it does not amount to defamation. As the contents of the defamatory material have not been

proved, therefore, accused cannot be convicted.

The perusal of the record shows that the findings have been given by learned Magistrate while appreciating the evidence in right perspective. In no way, the findings can be held as perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are illegal or against the law.

In view of the above discussion, I find that the impugned judgment dated 31.08.2015 passed by learned JMIC, Chandigarh, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

February 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No