

**CRM-40767-2015 in/and
CRM-A-2018-MA-2015**

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

**CRM-40767-2015 in/and
CRM-A-2018-MA-2015**

Date of Decision: September 19, 2017

Jang Bahadur

.....Applicant

Versus

Dalbir Kaur and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Viney Pandey, Advocate for
Mr.Abhinav Gupta, Advocate
for the applicant.

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SURYA KANT, J.

CM-40767-2017

Application is allowed subject to all just exceptions and delay
of 31 days in filing the application for leave to appeal is condoned.

CM stands disposed of.

CRM-A-2018-MA-2015

The applicant seeks leave to appeal against the judgment dated
07.08.2015 passed by Judicial Magistrate Ist Class, Jalandhar, whereby his
complaint under Sections 406, 409 read with Section 120-B IPC against the
Sarpanch and Panches of village Dheypur, Post Office Adda Kathar, District
Jalandhar, as well as against the then BDPO, Adampur Doaba, alleging

misappropriation of funds allocated to the Gram Panchayat for the

construction of Panchayat *Ghar*, has been dismissed.

[2] The case of the complainant-applicant was that in July 2002, the Gram Panchayat passed a resolution for the construction of second Panchayat *Ghar* over the land measuring 2 marlas, even though there was no need for such construction as there was enough space in the existing Panchayat *Ghar* for carrying out the affairs of the Gram Panchayat. It was further alleged that the funds were drawn by the accused from the account of the Gram Panchayat for raising 'A' Class construction but actually the Panchayat *Ghar* was constructed with 'C' Class construction. The building which has been brought into existence is not even 1/3rd of the worth of the expenditure shown to have been incurred for its construction and in this manner 2/3rd of the amount is said to have been misappropriated.

[3] Learned Judicial Magistrate considered the entire evidence led by the applicant but finding no substance in the allegations, the complaint has been dismissed. The reasons assigned by the learned Judicial Magistrate for discarding the applicant's version may be briefly noticed as follows:-

- (i) the star witness produced by the applicant was one Sarwan Singh who admitted in his cross-examination on 14.10.2014 that he had earlier filed a civil suit against the accused alleging that the land where Panchayat *Ghar* was constructed belonged to him. He had made complaints against the accused party and, thus, had an axe to grind;
- (ii) The applicant relied upon reports Ex.PW4/A and Ex.PW4/B prepared by Harminder Pal Singh, SDO, Phillaur. He examined one Manjit Singh as CW-4 to prove that report. The said witness, however, admitted in the cross-examination that though he had worked with

the SDO but he had never seen him signing and preparing the said report. Harminder Pal Singh-SDO was not produced as a witness. There was nothing on record to show that the report was ever accepted by the Competent authority. At best it was a statement of allegations which could not be substantiated;

(iii) Respondent No.1-the lady Sarpanch rather brought on record the Expenditure Register of the Panchayat which contained the details of the expenditure incurred on the construction of the Panchayat *Ghar* (Ex.DW4/B). She also brought on record the photocopies of the Panchayat fund allocated for the said project. She led enough evidence on record to infer that the Panchayat *Ghar* was constructed as per norms and no inferior material was used.

[4] In the light of the above reasons, we do not find any ground to grant leave.

[5] Dismissed.

(SURYA KANT)
JUDGE

September 19, 2017
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(SUDHIR MITTAL)
JUDGE

1. Whether speaking/reasoned ?	Yes/No
2. Whether reportable ?	Yes/No