

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-423-MA of 2017

.....

Date of decision:12.10.2017

Mohan Singh Saini

...Applicant

v.

Madan Lal Garg and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Suram Singh Rana, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Madan Lal Garg and Jagmohan Lal Malik alias Jaggi for grant of leave to appeal against the judgment dated 13.12.2016 passed by learned Judicial Magistrate Ist Class, Rupnagar, vide which the complaint filed under Sections 323, 341, 500, 506 and 120-B IPC has been dismissed and the accused have been acquitted of the charges as framed against them.

It has been mainly submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It has been stated that the trial Court without appreciating the evidence produced on record and law acquitted the respondents/accused from the charges as framed against them. It has also mentioned that the applicant has proved his

case before the learned trial Court, but the learned trial Court wrongly acquitted the respondents/accused without appreciating the evidence produced on record. It has, therefore, been prayed that this application seeking leave to file appeal be allowed and leave be granted to the applicant to file appeal.

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

From the record, I find that Mohan Singh Saini-complainant filed complaint against Madan Lal Garg and Jagmohan Lal Malik alias Jaggi under Sections 323, 341, 500, 506 and 120-B IPC. The brief facts of the case as mentioned in the judgment dated 13.12.2016 passed by the learned Judicial Magistrate Ist Class, Rupnagar are as under:-

“The brief facts narrated in the complaint are that Mohan Singh (here-in-after called complainant) was working as Assistant Engineer in Punjab Water Supply & Sewerage Board, Chamkaur Sahib, Distt. Ropar where Madan Lal Garg (here-in-after referred as accused No.1) was also working as SDO. On 17.01.2011, at about 11.36 a.m. accused No.1 called up complainant on his mobile phone and ordered the complainant to reach at the office of the Municipal Committee, Chamkaur Sahib. On this complainant immediately rushed towards the office of Municipal Committee Chamkaur sahib When complainant reached there accused No.1 started abusing complainant by saying that the complainant has got published

the news papers regarding sub standard/inferior quality of material used in the work being done by the Sewerage and Water Supply Board Punjab at Chamkaur Sahib and accused No.1 also slapped the complainant due to which he suffered an injury on his nose. Jagmohan Lal Malik (hereinafter called accused No.2) caught hold of complainant and accused No.1 again slapped the complainant and threatened to eliminate him. Accused No.1 also threatened the complainant that he has relations with the higher authorities and as such he will not let him get promoted. He threatened to transfer the complainant in remote area. Earlier that day, accused No.2 had also called up complainant on his mobile phone and ordered to reach the office of Municipal Committee, Chamkaur Sahib. Thereafter, accused No.1 got the complainant transferred to Bathinda. Complainant moved a complaint before police on 17.1.2011 but police did not take any action against accused. He moved another application to Deputy Commissioner, Rupnagar and SSP, Rupnagar. On 07.03.2011 police flatly refused to take any action against the accused. Hence the present complaint.”

The complainant examined himself as CW-1 for the purpose of charge and the charges have been framed under Sections 323, 341, 506 and 34 IPC against both the accused. After post-charge evidence the accused No.1 made statement that he does not want to further cross-examine the CW-1. The learned Judicial Magistrate Ist Class, Rupnagar after considering the

evidence acquitted the accused.

I have gone through the judgment passed by the learned Judicial Magistrate Ist Class, Rupnagar. The findings given by the learned Judicial Magistrate Ist Class, Rupnagar, are as per evidence and law and, in no way, these findings can be held as perverse or against law. Nothing has been pointed out as to which material evidence has been misread by the Court below and as to which material evidence has not been considered by the Court below. The occurrence in the present case had taken place on 17.1.2011 and the present complaint was filed on 8.3.2011 and the delay has not been explained. Though the complainant has stated that he had reported the matter to Police, but no official has been brought in the witness box nor any DDR has been produced on record. Further admittedly, the present complainant is the subordinate of accused Madan Lal Garg, who is the supervisory officer. It is allegation that the accused No.1 had given the slaps. There is no medico-legal examination nor any doctor has been examined. Further, I find that there is only oral statement of the complainant which is insufficient to prove the case against the accused beyond a reasonable doubt. It is also in the cross-examination that the complainant has been suspended thrice during his service. The main grievance of the complainant is that he has been transferred to Bathinda which further shows the motive of filing this complaint. The findings given by the learned Judicial Magistrate Ist Class, Rupnagar are correct as per evidence and law and the same are upheld.

In view of the above discussion, I do not find any ground to

grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous application filed under Section 378(4) Cr.P.C. seeking leave to appeal, the same is dismissed.

October 12, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No