

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

CRM No.A-47-MA of 2017 (O&M)
Date of decision: September 21, 2017

Paramjit Singh

...Applicant

Versus

Balwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gurmeet Singh, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Paramjit Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Balwinder Singh and other respondents, challenging the judgment dated 03.11.2016 passed by learned Judicial Magistrate Ist Class, Hoshiarpur, whereby the complaint filed by the applicant-complainant was dismissed and accused-respondents were 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 further stated that if the special leave is not granted to the applicant, then the applicant would suffer an irreparable loss and substantial injury. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Paramjit Singh filed a

and 149 IPC. The brief averments of the complaint as noted down in the judgment passed by learned JMIC, Hoshiarpur, are as under:-

“2. The brief facts as mentioned in the complaint are that the complainant is an elected Sarpanch of the Gram Panchayat of village Khanaura. The complainant and his family have good reputation in the village as well as in the area of Hoshiarpur, amongst friends and in the relations, being Sarpanch and leader of political party. All the accused have been floating a dubious society namely Vikas & Sudhaar Committee of village Khanaura, under political guidance of local MLA with the idea to lower down the stature and goodwill of the complainant. In the last election of Gram Panchayat, took place in the month of May, 2008 all the accused with malice and under the influence of a local political leader, tried their best to defame the complainant and left no stone unturned to defeat him, but the complainant with grace of god and his popularity had won the election and superseded as Sarpanch of village. The accused, with the view to defame him and with the idea to derail the raising graph of respect and goodwill of complainant, by conniving with each other, kept on creating problems in the village and created and floated a dubious society namely Vikas @ Sudhaar Committee of village Khanaura at the instigation of local political leader of Akali Dal with the motive to downsize the reputation and moral of complainant. The accused, being the members of the above said committee, had moved a false and wrong complaint by levelling false and defamatory allegations upon complainant before Deputy Commissioner, Hoshiarpur on 13-12-2008, by levelling several baseless accusation, derogatory and defamatory remarks against complainant regarding theft, misappropriation, smuggling of smack, characterless-ness, moral turpitude, fraud and intimidation with the idea to lower down the respect and dignity of complainant in the eyes of public at large. In the said application, several false, wrong and defamatory allegations were made. The accused intentionally in connivance with each other also repeated the above said allegations in the village before the Khulla Darbaar of Deputy Commissioner, Hoshiarpur. The accused further perpetuated their illegalities by pasting several written posters of said allegations in the village. All the allegations levelled against the complainant have lowered his reputation in the eyes of public at large in the village in relations and in the area of Hoshiarpur. Hence, the present complaint has been filed by the complainant.”

Learned JMIC, Hoshiarpur, after appreciating the evidence,

dismissed the complaint and acquitted the accused-respondents vide impugned judgment dated 03.11.2016.

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.

The perusal of the findings given by learned Magistrate shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. 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 perverse or against the law and what illegality has been committed by learned Court below.

From the perusal of the record, I find that CW-4 Narinder Pal and CW-5 Sham Lal, two witnesses of the complainant have turned hostile and have not supported the complainant's version. CW-4 Narinder Pal stated that he does not know as to what allegations are levelled against the complainant in the complaint. CW-5 Sham Lal also deposed the same facts. He stated that he does not know whether the accused have given any application to the Deputy Commissioner by levelling allegations against the complainant. He further stated that does not know as to who pasted the posters on the walls of the village. Therefore, these two witnesses have not supported the complainant's version. CW-3 Sanjay Singh, Clerk, has simply proved the record regarding the complaint given to the Deputy Commissioner. CW-2 Tajinder Singh has also stated that he has not read

any application which is stated to have been given by the accused against

the complainant. He does not know Punjabi. He stated that he came to know that some applications have been given to the Deputy Commissioner. He also stated he never appeared before the Deputy Commissioner nor in any enquiry, he got recorded his statement. He further specifically stated that he has not seen any accused pasting the posters on the walls of the village. Therefore, from the statement of CW-2 Tajinder Singh, nothing came against the accused. Only statement of complainant remained on the record but the perusal of the statement of the complainant also shows that he has not proved and got exhibited the complaint given to the Deputy Commissioner. He also stated that the posters were pasted on the walls of the village and people told him about the same, which means that the complainant also has no knowledge as to who has pasted the posters on the walls of the village and the posters have also not been proved as per law. Even if it is taken that a complaint was filed by the accused to the Deputy Commissioner, though, it has not been proved beyond doubt, even then, there is nothing on the record that the complaint was given with the intention to defame the complainant. The publication of the defamatory material has not been proved. Rather, in the statements of CWs, even contents of that application given to the Deputy Commissioner, have not been mentioned.

From the perusal of the judgment passed by the Court below, I find that the findings have been given by correctly appreciating the evidence in right perspective and accused-respondent has been rightly acquitted. In no way, the judgment can be held as perverse or against the evidence.

In view of the above discussion, I find that the impugned

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.

September 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No