

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

CRM No.A-73-MA of 2017 (O&M)
Date of decision: September 21, 2017

Rekha Sharma

...Applicant

Versus

Yad Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Cooner, Advocate
for the applicant.

INDERJIT SINGH, J.

CRM No.2053 of 2017

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 69 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-73-MA of 2017

Applicant-Rekha Sharma has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Yad Ram and other respondents, challenging the order dated 30.08.2016 passed by learned Judicial Magistrate Ist Class, Kalka, vide which the respondents have been discharged.

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.

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

From the record, I find that a complaint was filed by Rekha Sharma against accused Yad Ram, Sanjeev Kumar alias Sanju, Khem Raj alias Khema and Subhas under Sections 354, 427, 447, 452, 379, 380, 323, 504, 506(ii) and 352 read with Section 34 IPC. After summoning, the case was fixed for framing of charges. Learned JMIC, Kalka, held that there are no sufficient grounds to frame the charge the accused persons and they were discharged vide impugned order dated 30.08.2016.

Aggrieved from the order dated 30.08.2016, present appeal along with application for grant to leave has been filed.

The perusal of the record shows that it is a warrant trial case and the accused have been discharged and charges have not been framed. The discharge in the warrant trial case, in no way, amounts to acquittal of the accused. When the accused have not been acquitted, then the filing of appeal against acquittal is not maintainable. When the appeal is not maintainable, therefore, question of granting leave to appeal against acquittal does not arise. Against the impugned order, only revision petition is maintainable.

In view of the above discussion, the present application stands dismissed being not maintainable.

September 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No