

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

**CRR No.3621 of 2015 (O&M)
Date of Decision: August 17, 2017**

Balkar Singh

...Petitioner

VERSUS

Charanjit Kaur @ Channi and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sukhmeet Singh, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Balkar Singh against respondents Charanjit Kaur @ Channi and Ajaib Singh, challenging the impugned judgment of acquittal dated 07.02.2014 passed by learned Judicial Magistrate Ist Class, Patiala, vide which the accused-respondents were acquitted and also challenging the judgment dated 02.07.2015 passed by learned Addl. Sessions Judge, Patiala, vide which appeal filed by petitioner-complainant was dismissed.

From the record, I find that a complaint was filed by the petitioner against the accused-respondents under Sections 341, 323, 298, 452, 382, 500, 501, 502, 506 and 34 IPC. The brief averments of the complaint as noted down in the judgment passed by learned JMIC, Patiala, are as under:-

30.09.2008 at about 5.00pm when he was going to purchase milk from the dairy of Shri Darbara Singh in the main street of village Fatehpur Rajputan, the accused started abusing him by using unparliamentary language. They called the complainant Baba Bakhtoura, nonsense as well as his wife as Langri Lulhhi (handicapped) besides calling the complainant as Thag Lootera in the presence of other persons of the village and in the presence of wife of the complainant. Such unparliamentary language used by the accused defamed the complainant in the eyes of the villagers and relatives etc. Further, on 18.10.2008 complainant alongwith his other family members was present at home. Then accused persons armed with knife forcibly entered into his house. At the point of knife, the complainant was asked to give his purpose, threatening him that otherwise he would be eliminated and under threat he gave his purse containing Rs.1120/- in the hands of accused no.2. The accused no.2 took money from purse and gave fist blow on the face of complainant. Accused no.1 is a bad character lady having relations with many persons and all the villagers are living under threat of accused no.1 and no one dares to raise truth against the accused persons. The motive behind the occurrence is that accused has taken loan of Rs.15,000/- from the complainant in the year 2000, which they failed to return after repeated demands raised by the complainant. Police did not take any action against the accused, lodged by the complainant with the police of PS Sadar, Patiala. Hence this complaint.”

On presentation of challan against the accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Sections 452, 386 and 34 IPC, to which they pleaded not guilty and claimed trial.

Learned JMIC, Patiala, after appreciating the evidence, acquitted the accused-respondents. An appeal was filed by the petitioner-complainant and the same was dismissed by learned Addl. Sessions Judge, Patiala, vide judgment dated 02.07.2015.

Aggrieved from the above-said judgments, present revision petition has been filed by the petitioner.

I have heard learned counsel for the petitioner and have gone through the lower Court record.

The perusal of the record shows that it is a complaint case and the accused have been acquitted of the offences charged with in the complaint case. Therefore, no appeal lies before the Court of Session. If the appeal is filed before the Court of Session and that Court has exceeded its jurisdiction, even then the order/judgment passed by Court of Session is of no value. The appeal against acquittal in a complaint case lies before this Court along with the application for leave to appeal under Section 378(4) Cr.P.C and no revision is maintainable.

In view of the above discussion, present revision petition stands dismissed being not maintainable. However, as the objection has been raised by the Registry of this Court that appeal is not maintainable, therefore, liberty is granted to the petitioner to file appeal alongwith application for leave to appeal under Section 378(4) Cr.P.C. and if the appeal along with the application is filed within reasonable time, then the period spent in pursuing the wrong remedy before this Court, will be treated as condoned.

August 17, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No