

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

**CRM No.A-681-MA of 2011 (O&M)
Date of decision: November 13, 2018**

Ramesh Chand

...Applicant

Versus

Saroj Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gurcharan Dass, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Ramesh Chand has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Saroj Rani and other respondents, challenging the judgment dated 20.04.2011 passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby 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, therefore, prayed that leave to appeal be granted.

As per the record, complainant Ramesh Chand filed a complaint against accused Saroj Rani, Janko, Bhulla Ram, Sonu and Om Parkash under Sections 499, 500 and 34 IPC. The brief averments of the complaint as noted down in the judgment passed by learned JMJC,

Ludhiana, are as under:-

“2. Brief facts as put forth by the complainant in his complaint are that accused No.1 is daughter in law of complainant, whereas accused No.2 and 3 are her parents, accused No.4 is brother and accused No.5 is uncle of accused No.1. In the month of February 2004, accused No.2 to 4 had come to the residence of complainant to meet accused No.1 where the complainant, his sister Guddi, wife Preet, daughter Suman Bala and friend Kuldeep Singh were present. The accused started making demand from the complainant to give separate share to accused No.1 from his property to which the complainant refused. Annoyed from this version, the accused started threatening the complainant that they would defame and lower the reputation of the complainant. With their pre-planned intention, the accused in order to defame and lower the reputation of complainant got filed a complaint dt. 30.7.04 through accused No.1 with the SSP, Ropar stating therein that complainant on 17.2.04 has raped accused No.1 in his residence at 192-E, B.R.S. Nagar, Ludhiana. As such accused No.1, 4 and 5 alongwith some police personnel of Distt. Ropar had come to the residence of complainant and started propagating false, frivolous, derogatory and defamatory imputations against the complainant in order to lower his prestige that he has raped accused No.1. The police of Ropar had got signed from nephew of complainant Shamsheer Singh for procuring the presence of complainant and his family members at P.S. Anandpur Sahib, Distt. Ropar. After investigation, the above said imputations made by the accused against the complainant were found to be false and frivolous by the police of Distt. Ropar. On account of levelling the above said false and derogatory and defamatory imputations against the complainant, the friends and relatives of complainant started avoiding the complainant and viewing him with feeling of hatred. It has become impossible for the complainant to walk in general public and to attend any public function. It is averred that the accused have committed offences punishable under Section 499/500/34 IPC. Hence the present complaint.”

In pre-charge evidence, complainant examined CW-1 Kuljit Kumar, CW-2 Apinder Singh, CW-3 Tarsem Singh, CW-4 Charanjit Singh, CW-5 Kuldeep Singh and complainant appeared in the witness box as CW-6. Finding prima facie case, the accused were charged under Sections 500/34 IPC. During the pendency of the trial, accused Bhulla Ram, Om Parkash

and Janko died and as such, complaint against them was dismissed as withdrawn.

In after charge evidence, the complainant examined himself as PW-1 and PW-2 Manjit Singh. At the close of complainant evidence, the accused were examined under Section 313 Cr.P.C. They were confronted with the evidence of the complainant and they denied all the incriminating evidence against them and pleaded their false implication and innocence.

Learned JMIC, Ludhiana, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 20.04.2011.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

Lower court record was requisitioned.

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

The perusal of the record shows that accused No.1 levelled allegations of rape against her father-in-law (present complainant) and FIR was got registered under Sections 406, 498-A and 376 IPC but the challan was presented only under Sections 406 and 498-A IPC. There is nothing substantial as to why Section 376 IPC was deleted. There is also nothing in the final report under Section 173 Cr.P.C. presented in that FIR, as to whether the allegations of rape were false or not. It is simply written that after enquiry, Section 376 IPC has been deleted. Learned Magistrate framed the charges under Section 406 and 498-A IPC in that FIR, which trial was stated to be pending before the Court at the time of decision of the present

complaint. Further, it is also in the judgment that at that time, a revision

was also pending before this Court against the order not framing of charge under Section 376 IPC.

The perusal of the record, nowhere shows that there is any finding by any of the Court that allegations under Section 376 IPC were false and levelled only to defame the present complainant. There is only self-serving statement of the complainant on record alleging that allegations were false. It is admitted fact that it is a matrimonial dispute and the allegations are levelled by accused No.1 against her father-in-law under Section 376 IPC, who is complainant in this case. The perusal of the record, especially, the judgment passed by learned JMIC shows that litigation regarding maintenance etc. was also pending between the parties. Accused No.1 has availed remedy under the law by getting registered the FIR and further their being no finding that those allegations were falsely levelled only to defame the complainant, I find that complainant has failed to prove his case beyond reasonable doubt.

The perusal of the findings given by learned Court below 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. At the time of arguments, 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. The findings have been given by correctly appreciating the evidence in right perspective and accused-respondents have been rightly acquitted.

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

judgment dated 20.04.2011 passed by learned JMIC, Ludhiana, is correct, 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.

November 13, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No