

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-252-MA of 2013

.....

Date of decision:6.12.2018

Baldev Singh

...Applicant

v.

Satnam Singh and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Tarun Sharma, Advocate for Mr. P.S. Jammu, 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 Satnam Singh and others-respondents seeking grant of leave to file appeal against the impugned judgment dated 29.1.2013 passed by learned Sub Divisional Judicial Magistrate, Zira, whereby in the complaint filed under Sections 323, 353, 380, 506, 148 and 149 IPC, the accused-respondents have been discharged.

It has been mainly stated in the application that accompanying appeal is being filed against the judgment dated 29.1.2013 passed by learned Sub Divisional Judicial Magistrate, Zira, which is likely to succeed on the grounds mentioned therein. It has been stated that the learned Sub Divisional Judicial Magistrate, Zira, has passed a totally wrong and illegal judgment whereas the respondents/accused facing trial have been discharged. It has, therefore, been prayed that this application 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 Baldev Singh-complainant filed complaint against Satnam Singh, Ajit Singh, Jaswinder Singh, Sukha Singh, Sukhwinder Singh and Ravisher Singh for the offences under Sections 323, 353, 380, 506, 148 and 149 IPC and the accused were summoned under these sections. It is a warrant trial case and the case was fixed for framing of charge. After pre-charge evidence, the complaint was dismissed. The learned Sub Divisional Judicial Magistrate, Zira, held that no *prima facie* case is made out for framing charges against the accused and the accused stand discharged. As it was not a summons case, rather, a warrant trial case, therefore, the order of discharge passed by the Court below, in no way, can be held as order of acquittal as the accused/respondents have only been discharged and not acquitted by the learned trial Court. Therefore, appeal against acquittal is not maintainable and no question arises for grant of leave to appeal.

In view of the above, I find that this criminal miscellaneous application is not maintainable and the same is dismissed. However, the applicant is at liberty to avail appropriate remedy by filing criminal revision etc.

December 6, 2018.

(Inderjit Singh)
Judge

hsp

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