

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

CRM No.A-1572-MA of 2018 (O&M)

Date of decision: October 10, 2018

Veerpal Kaur

...Applicant

Versus

Rajwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Achin Gupta, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Veerpal Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Rajwinder Singh and other respondents, challenging the judgment dated 22.02.2018 passed by learned Judicial Magistrate Ist Class, Bathinda, 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 Veerpal Kaur filed a complaint against accused Rajwinder Singh, Sarpanch, Jagsir Singh, Gurtej Singh, Jagseer Singh, Baltej Singh, Golo Kaur, Amarjit Kaur, Member Panchayats, Jagjit Singh, Manmohan Singh, Jagsir Singh, Lakhveer Singh, Jarnail

Singh, Amrik Singh and Rama Singh under Sections 499, 500, 120-B and

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

“1. The complainant has filed this complaint under Sections 499, 500, 120-B, 506 of IPC on the allegations that the marriage of the complainant was solemnized with Jasvir Singh and from their wedlock two children namely Gurvinder Singh and Navneet Kaur were born. Jasvir Singh was habitual of taking intoxicants and used to pick quarrel with the complainant and desert her time and again after giving her merciless beatings. About 5/6 years back, the husband of the complainant deserted her and the complainant along with her children came to her parental house and started residing with her father Nazar Singh. Father of the complainant managed to purchase a house for the complainant at village Kothe Nathiana and the complainant along with her children started residing therein. The father of the complainant used to visit the complainant from time to time and live with her to look after minor children. Even after about one year, the husband of the complainant started residing with the complainant on assurance not to give beatings to her. The husband of the complainant some time used to live at village Chotian and sometime with complainant at village Kothe Nathiana. It is averred that on 15.11.2013 at about 8.45 PM, the complainant was doing household work. In the meantime, accused Rama Singh entered in house of the complainant in drunkard condition and caught hold the complainant from arms. When complainant tried to run, he caught her from neck and shirt of the complainant was torn. She raised alarm, then Ex.Member Panchayat Jagdev Singh came at spot and caught hold the accused, who tendered apology. The matter was taken before Panchayat but no compromise could be effected as accused No.1 to 7 favoured accused Rama Singh. The complainant got lodged FIR No.133 dated 20.11.2013, u/s 354 IPC against accused Rama Singh. On this, accused No.1 to 13 hatched conspiracy with accused No.14 with common intention to put pressure upon the complainant to compromise the matter with accused Rama Singh and passed a false and frivolous resolution dated 22.11.2013 levelling false allegations against the complainant that she is lady of loose character and she is now living with Jagdev Singh at fourth place and wrong ladies and gents used to come to the complainant and she is indulging in illegal activities and submitted the same to the SSP, Bathinda along with covering letter, which was marked to DSP, Bathinda for inquiry. Said resolution was signed by accused No.1 to 13. During inquiry, accused No.1 suffered false statement before the DSP against the complainant that complainant was ousted from village Chotian and she started residing at village Sahib Chand from where she was ousted due to her character and now she is living with Jagdev Singh,

Ex.Member Panchayat and that she got registered false case against accused Rama Singh in order to extract money from him. Accused No.1 to 13 also got recorded a common statement before the IO on 21.03.2014 and statement of complainant and Jagdev Singh were also recorded. Ultimately, the application moved against the complainant was dismissed vide inquiry report dated 16.05.2014 with the observation that allegations levelled by accused are not proved and application has been moved in order to put pressure upon the complainant to compromise the matter with Rama Singh. The accused in connivance and collusion with each others levelled false allegations against the complainant with an intention to malign the reputation of the complainant in eyes of her family members, friends, relatives, co-villagers and general public at large. Hence the instant complaint.”

Finding prima facie case, the accused were charge-sheeted under Sections 500 and 506 read with Section 120-B IPC, to which they pleaded not guilty and claimed trial.

The complainant examined herself as CW-1, CW-2 Vakil Singh, CW-3 Jagdev Singh and CW-4 Head Constable Resham 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. In defence, accused examined DW-1 Paramjit Kaur and DW-2 Jagsir Singh.

Learned JMIC, Bathinda, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 22.02.2018.

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 as well as learned

State counsel 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. 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.

Learned Magistrate, after appreciating the evidence, reached to the conclusion that the accused did not publish the resolution Ex.C1 for public rather submitted the same to SSP, Bathinda for conducting inquiry. For the offence of defamation, publication of defamatory matter is essential ingredient and the defamatory matter must be communicated to some person with motive to defame the complainant. When any complaint is moved to competent authority for proper inquiry, no offence under section 500 IPC is made out. Learned Magistrate has relied upon the law laid down in **2002(1) RCR Criminal 393**. Learned trial court, after relying upon the law held that there is no publication in the present case and one of the necessary ingredient is missing. Therefore, offence under Section 500 IPC is not proved.

Further, as regarding offence under Section 506 IPC, learned Magistrate held that complainant's witnesses have failed to depose the exact word which has been used by the accused for threatening her. The Court held that merely the allegation of extending threat is not enough to attract Section 506 IPC. Depth and gravity of words uttered by the persons

extending threat is to be assessed from the circumstances to make out

offence under Section 506 IPC. Similarly, the Court below held that there is no evidence to prove offence under Section 120-B IPC.

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-respondents have 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 judgment dated 22.02.2018 passed by learned JMIC, Bathinda, 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.

October 10, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No