

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.31521 of 2016
and
Criminal Misc. No.A-1844-MA of 2016

.....

Date of decision:14.12.2018

State of Haryana

...Applicant

v.

Ramesh Malik

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Tanuj Sharma, Assistant Advocate General, Haryana for the
applicant-State.

Mr. Harmanjit Singh, Advocate for Mr. Hemant Bassi,
Advocate for the respondent.

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Inderjit Singh, J.

Cr. Misc. No.31521 of 2016:

For the reasons mentioned in the criminal miscellaneous
application, the delay of 327 days in filing the appeal and application
seeking leave to file appeal is condoned.

The criminal miscellaneous application stands allowed.

Cr. Misc. No.A-1844-MA of 2016:

The applicant-State has filed this criminal miscellaneous
application under Section 378(3) Cr.P.C. against Ramesh Malik-respondent
seeking grant of leave to file appeal against the impugned judgment of

acquittal dated 12.8.2015 passed by learned Special Judge, Hisar, whereby the accused-respondent has been acquitted of the charges as framed against him in case FIR No.47 dated 9.10.2013 registered for the offences under Sections 7 and 13 of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the PC Act') at Police Station State Vigilance Bureau, Hisar.

It has been mainly stated in the application that the accompanying appeal is being filed against the judgment dated 12.8.2015 passed by learned Special Judge, Hisar, which is likely to succeed on the grounds mentioned therein. It has been stated that the impugned judgment of acquittal passed by the learned Court below is contrary to law and facts and the same is not sustainable in the eyes of law. It has been mentioned that the judgment of acquittal of the accused-respondent has caused grave miscarriage of justice. It has, therefore, been prayed that this application be allowed and leave be granted to the applicant-State to file appeal.

From the record, I find that challan had been presented by Police Station State Vigilance Bureau, Hisar in FIR No.47 dated 9.10.2013 registered for the offences under Sections 7 and 13 of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the PC Act'). The brief facts of the case as noted down by learned Special Judge, Hisar, in his judgment dated 12.8.2015 are as under:-

“Brief facts of case are that on 9.10.2013, Sanjay Dalal complainant submitted complaint Ex.P8. In complaint, complainant inter alia stated that he had taken contract of brick lining of Raipur Minor 8215-L water channel as per DTR rates

for Rs.9,18,000/-. His bill of Rs.Six lacs has been prepared by Irrigation Department. Regarding the bill Ramesh Malik JE Irrigation Department Hansi is demanding bribe of Rs.60,000/-. He had done the contract work under supervision of Ramesh Malik JE. On basis of complaint, FIR was registered. During investigation, pre-trap and post-trap proceedings were conducted. Accused was arrested. Statements of witnesses were recorded. Case property was taken into possession. Rough/scale site plan of place of occurrence was prepared. Sanction for prosecution of accused was obtained.”

On finding a *prima facie* case, charges against accused-respondent were framed for the offences under Sections 7 and 13 of PC Act, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW-1 Navdeep Singh Chahal, PW-2 Kurda Ram Reader, D.M., Hisar, PW-3 SI Kulwant, PW-4 Sanjay Dalal, PW-5 Rohtash, PW-6 Ramphal Kataria, PW-7 Satyawar SI, PW-8 Gyan Singh, PW-9 Narain Singh, Assistant, PW-10 Subhash Chander, PW-11 EHC Subhash Chander, PW-12 EASI Ajit Singh, PW-13 Ajaib Singh, Inspector and closed its evidence.

At the close of prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. and he was confronted with the evidence against them, but he denied the correctness of the prosecution evidence and pleaded himself as innocent. In defence, the accused tendered documents Ex.DX and Ex.DX/1 and closed his evidence.

After appreciating the evidence, the accused was acquitted by the learned Special Judge, Hisar, vide judgment dated 12.8.2015. Aggrieved from this judgment of acquittal, the present appeal along with application seeking leave to appeal has been filed by the complainant.

Notice of motion was issued in this case.

Mr. Harmanjit Singh, learned Advocate for Mr. Hemant Bassi, learned Advocate has appeared on behalf of the respondent and contested this application.

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

From the record, I find that in the present case PW-4 Sanjay Dalal-complainant has not supported the prosecution version. He has specifically stated in his examination-in-chief that the villagers of Village Mayar took him and Rohtash to the office of State Vigilance Bureau, Bhiwani, where Vigilance officials obtained his signatures as well as signatures of Rohtash on blank papers in order to carry out proceedings. He does not know accused and he never met him before that day. He never demanded any bribe money from him nor he paid any bribe money to him. In cross-examination, he admitted his signatures and signatures of Rohtash on Ex.P.9 to Ex.P.12 which he states were obtained on blank papers. PW-5 Rohtash-shadow witness has also not supported the prosecution version and turned hostile. He deposed that he does not know anything about the facts of this case. Villagers of Village Ghuskani took him and Sanjay Dalal to the office of State Vigilance Bureau, Bhiwani, where Vigilance officials

obtained his signatures as well as signatures of Sanjay Dalal on blank papers in order to carry out proceedings. He does not know accused and he never met him before that day. He has never demanded any bribe money from anyone in his presence and no one has ever paid any bribe money to him in his presence. In cross-examination by learned Public Prosecutor, he admitted his signatures and signatures of Sanjay Dalal on Ex.P.9 to Ex.P.12 which were obtained on blank papers. The complainant as well as the shadow witness had turned hostile and have not supported the prosecution version, therefore, the demand and acceptance of bribe have not been proved by the prosecution.

In view of the fact that the complainant and shadow witness have turned hostile and have not supported the prosecution case, therefore, a reasonable doubt exists in the prosecution version and the accused has been rightly acquitted by the learned Special Judge, Hisar. The findings given by the learned Special Judge, Hisar are as per evidence and law. In no way, the findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered by the Court below. The findings have been given by the learned Special Judge, Hisar, after appreciating the evidence in right and proper perspective which are as per evidence and law and the same do not require any interference from this Court and the same are upheld.

From the above, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous

application filed under Section 378 (3) Cr.P.C. seeking leave to file appeal,
the same is dismissed.

December 14, 2018.

(Inderjit Singh)
Judge

hsp

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