

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

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CRM-A-2166-MA-2016 (O&M)

Date of Decision:- 05.04.2018

Baldev Singh

... Appellant

Versus

Avtar Kaur and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Lakhwinder Singh Mann, Advocate, for the appellant.

M.M.S. BEDI, J.

1. This is an application for leave to appeal under Section 378(4) of the Code of Criminal Procedure, 1973 against the judgment of acquittal passed by learned Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar with an application for condonation of delay of 6 days in filing of the appeal.
2. The appellant is father and attorney of Amardeep Singh who is resident of Dubai. The appellant had filed a divorce petition against the daughter-in-law, in the capacity of attorney of Amardeep Singh. The said divorce petition has been allowed vide judgment and decree dated 25.4.2011. Respondents No.1 and 5 had appeared as witnesses as RW-1 and RW-2 and had submitted their affidavits regarding demand of dowry and payment of some amount. The complaint was filed by the appellant alleging that the respondents No.1 and 5 had produced original passbook of the mother of respondent No.1 indicating few withdrawal entries. The said entries in the passbook were suspicious, forged and fabricated, therefore, record of the account was summoned by the Court from the Bank and on comparison, it was found that the entries in the passbook were forged and fabricated as they did not reconcile with the entries of the bank record. The complaint

has been dismissed vide impugned order.

3. Counsel for the appellant has submitted that the complaint has been dismissed and acquittal order has been passed on misreading of evidence. Counsel for the appellant vehemently urged that while dismissing the complaint, it has been observed that judgment and decree dated 25.4.2011 is subject matter of appeal as such the finding and observations of the matrimonial Court cannot be treated prejudicial in any manner and as such any observation made in the judgment which is subject matter of appeal cannot be relied upon.
4. We, with the assistance of counsel for the appellant, have carefully gone through the facts and circumstances of the case. The allegations are of forging a document and user of the same and that the document had been produced and given in evidence in matrimonial proceedings filed by the appellant on behalf of his son.
5. After hearing counsel for the appellant, we find that the lower Court has dismissed the complaint mainly on the ground that the judgment and decree of the matrimonial Court is subject matter of the appeal and has not become final. That finding is sufficient enough for dismissal of the complaint.
6. We have considered the facts and circumstances of this case from another angle also. Since the allegation of the appellant is that forged documents have been produced in proceedings before the Court, in that context, the provision of Section 195(1)(b)(ii) of Cr.P.C. will be applicable which lays down that no Court shall take cognizance of the offence under Section 463 punishable under Section 471, 475 or 476 of IPC if the offence is alleged to have been committed in respect of the document produced in the proceedings of any Court except on the complaint in writing of that Court.

all maintainable.

7. Besides this, we are of the considered opinion that no prejudice has been caused to the appellant or his son for whom he appeared as attorney as the application for divorce has actually been allowed in favour of Amardeep Singh son of the appellant. The alleged forged documents have not caused any prejudice or wrong to the appellant.
8. We have considered the contention of learned counsel for the appellant that no prejudice having been caused on account of the alleged forged document having been produced by the respondents could be established. The private complaint filed by the appellant in his individual capacity is also not maintainable as he is merely an attorney for Amardeep Singh in the main matrimonial matter. Prejudice, if any, could have been said to have been caused to Amardeep Singh who is resident of Dubai. The complaint filed by the complainant is merely a luxury litigation with an objective to harass the respondents.
9. In view of the above, no ground is made out for interference in the judgment of the trial Court. Resultantly, while the delay of 6 days in filing the appeal is condoned, leave to appeal against the judgment of acquittal is declined. The application is dismissed.

(M.M.S. BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

April 05, 2018
mohan

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No