

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

CRM No.A-1084-MA of 2014 (O&M)

Date of decision: July 20, 2018

Guru Jambheshwar University of Science and Technology, Hisar

...Applicant

Versus

Rajender Yadav

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashok Arora, Advocate
for the applicant.

Mr.Bhupinder Singh, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-Guru Jambheshwar University of Science and Technology, Hisar has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Rajender Yadav, challenging the impugned judgment dated 24.01.2014 passed by learned Chief Judicial Magistrate, Hisar, vide which the accused-respondent was 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 further stated that if leave to appeal is not granted, then applicant will suffer irreparable loss and injury. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant Guru Jambheshwar University of Science and Technology, Hisar filed a complaint against accused Rajender Yadav under Sections 499 and 500 IPC. The brief averments of the complaint as noted down in the judgment passed by learned CJM, Hisar, are as under:-

“The brief facts of the case of complainant are that complainant University is one of the best, prominent and famous university of the country which is imparting various Technical and Management Courses to thousands of students every year and is managed and looked after by highly qualified teaching and non teaching staff. It is alleged that the accused had taken the University Cafeteria from the complainant on licence basis for one year i.e. from September 2005 to September 2006. In the meantime, the Executive Council of the University in its meeting held on 28.08.2006 decided to run this Cafeteria on a Co-operative/No profit no loss basis with a view to provide better services under perfect hygienic conditions to the students and staff of the university. Therefore, after expiry of his licence period, the accused was given one month's notice to vacate the Cafeteria upon which the accused requested the University authorities to extend the licence upto March, 2007. However with a view to help to arrange for alternate business outside the University premises, the complainant allowed the accused to run the above said Cafeteria upto 31.12.2006 and got vacated the same from the accused on that date. Dissatisfied with this legal action of the University taken in the larger interest of its staff and students, the accused started hurting and maligning the general image and reputation of University. The accused also started to lower down the reputation and image of the University leading to damage beyond control to the image and reputation of the entire University despite knowing fully well that a licensee of the Cafeteria of the University the accused had no right or authority to remain in possession of University Cafeteria after expiry of lease period. When all lawful efforts of the University failed to stop the accused from indulging in mudslinging mentioned above, the University was constrained to ban his entry on the university campus in the larger public interest in order to maintain peace, harmony and discipline in the University Campus.

2. *It was further alleged that as a counter blast to the ban of his entry on the University Campus, the accused made an utterly false, frivolous and derogatory and defamatory complaint to Defence Research and Development*

Organization, Directorate of Electronics and Computer Sciences, B Block, DRDO Bhawan, New Delhi against the University and the department of Applied Physics in which he made various false allegations which enter alia refer that the University does not deserve the grant of Rs.5.93 Crores for research work; that this grant has been made available for a high level research in Optical Material and Photonics devices and this Department has started working merely 10 years ago; seats are lying vacant in this department for students: students, teachers and specialists are not available in this department; that there is only one experienced Professor in the Department of Applied Physics; One teacher was wrongly promoted and appointed on contract basis and one of them remains out of the University for most of the time and other has been retained in the University by alluring; that he may leave at any time; that the position of placement in this department being run for more than 10 years is pitiable; that due to corrupt and wrong working of the Vice-Chancellor of the University, there is no scope of joining any suitable professor in the university; that from the date he took over as V.C., there has been discussion in the media about his nepotism, controversial working and continuous violation of rules; that there has been a down fall in the reputation of University; that it is almost certain that the grading of the University will come down in the re-assessment of the University of UGC; that in spite of several efforts of Vice Chancellor, the UGC CSIR and other institutions have not given any grant to University for research work; that the image of Vice Chancellor is not good; that the grant given by DRDO, New Delhi will not be used suitably; that the Vice Chancellor has misguided DRDO and IRDE Dehradun; that the grant received for the purpose of Research would definitely be misused. The accused also sent the copy of this complaint to IRDE, Dehradun and circulated and distributed the copies of this complaint to various persons and newspaper at Hisar without verifying the allegations levelled in this complaint.

3. *Still further, it is stated that the proposed project envisages the development of very important products which are important nationally and propriety to only few advanced countries. The project was received and was proposed for the development with IRDE, Dehradun which is one of the pioneering research laboratories of the DRDO. Thereafter, after thorough review, the project was sanctioned to this University. The accused has put up false and frivolous charges in his complaint to defence Minister. The accused is layman and does not know any thing about this products, thus, intentionally with a view to hamper the development of project against the national interest, the complaint was made by the accused with the sole aim of maligning and damaging the image and reputation of the complainant in the eyes of DRDO, New Delhi, Ministry of Defence, Government of India, New*

Delhi as well as in the eyes of IRDE, Dehradun and in the eyes of teaching and non teaching staff of the university, therefore, the Chairman called a meeting of the Staff Council of Department of Applied Physics on 21.08.2007 in which the contents of complaint were scrutinized and examined and ultimately it was recommended to file a criminal complaint for defamation against accused and bringing this matter to the notice of the Hon'ble Defence Minister, worthy Chancellor of the University and other dignitaries of the State and country.

4. It is also alleged that the present Vice Chancellor is highly repudiated Technocrat, Academician and internationally acclaimed Scientist. The University has attained greater heights against similarly situated universities in the country. All said and done, the accused by his illegal acts has succeeded in causing damage to the image and general reputation of the University in general and particularly of the teaching and non teaching staff of the Department of Applied Physics. The accused had made this complaint with an oblique motive to tarnish and damage the reputation of the complainant University in the eyes of all concerned.

5. The complainant requested the accused time and again to withdraw the derogatory and scandalous allegations levelled by him in the aforesaid manner but in vain. Ultimately, the complainant sent a legal notice by registered post to the accused through its Counsel asking him to tender an unconditionally apology to the complainant with a copy to press within 15 days from the receipt of notice. Though, accused had received the notice but he has not tendered any apology to the complainant. Rather, he has started indulging in meaningless correspondence on the issue and has started seeking information under the garb of his alleged rights under the Right to Information Act, 2005. Since, the accused has defamed the complainant by getting false news published with malafide intention he is liable to be prosecuted for commission of offence under Section 499 / 500 of Indian Penal Code.”

In after charge evidence, complainant examined PW-1 Devender Mohan, Professor, PW-2 Nawal Kishore, Professor, PW-3 Dr.R.S.Jaglan, PW-4 A.K.Srivastva, Scientist and PW-5 R.K.Rajong, Senior Accounts Officer.

After close of complainant evidence, the accused was examined

under Section 313 Cr.P.C. and he was confronted with the evidence of the prosecution. He denied the incriminating evidence against him. In defence, accused examined DW-1 Satish Kumar, Deputy Director, Local Audit Department, DW-2 Shamsher Saini, DW-3 Mayank Saini, DW-4 Nafe Singh, Deputy Registrar, DW-5 Laxmi Sharma, Personal Officer and DW-6 N.K.Langoo.

Learned CJM, Hisar, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 24.01.2014.

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

Notice of motion was issued. Learned counsel for the respondent appeared and contested the application.

Lower Court record was also requisitioned.

I have heard learned counsel for the parties 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 Court below, after appreciating the evidence, held that complainant itself admitted in cross-examination that a letter was written by the accused to the Ministry of Defence. Even in the complaint itself, the

fact also finds mention that the complainant had given a complaint to DRDO. The Court held that giving of complaint to higher authorities or the authorities concerned, in no way, amounts to publication of the defamatory material. When a complaint is filed to the higher authorities to bring out some wrongs or irregularity or negligence on the part of any institution or person, it is only for the higher authority and not defaming the person in general public and it does not amount to publication of defamatory material. On this ground alone, this complaint is liable to be dismissed as one of the necessary ingredient is missing. In the complaint Ex.PC, the accused made complaint regarding mis-utilization of funds of ₹5.93 crores, which was given to the University. It is also written that there is wide range of corruption in the University. Therefore, on this ground, offence of defamation is not made out as one of the necessary ingredient i.e. publication of defamatory material is missing.

Learned Court below has rightly found that none of the witnesses examined by the University-complainant has stated in their examination that there was any sort of circulation of the alleged complaint to the public at large or in the University campus itself. All of them stated that meeting took place with regard to the alleged complaint and it was found that contents were false and accordingly, a decision was taken to prosecute the accused, which means that there was no publication of the complaint. Learned Magistrate has found that complainant has failed to prove its case beyond reasonable doubt and by giving benefit of doubt, acquitted the accused.

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-respondent has 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 24.01.2014 passed by learned CJM, Hisar, 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.

July 20, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No