

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

CRM No.A-1843-MA of 2017 (O&M)

Date of decision: December 04, 2018

Ram Pal

...Applicant

Versus

Kartara

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mange Ram Sharma, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Ram Pal has filed this application under Section 378 (4) Cr.P.C. seeking permission for leave to appeal against respondent Kartara, challenging the order dated 12.06.2017 passed by learned Judicial Magistrate Ist Class, Kaithal, whereby 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 applicant will suffer an irreparable loss and grave injustice, if leave to appeal is not granted. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant Ram Pal filed a complaint against accused Kartara under Section 500 IPC. The brief averments of the complaint as noted down in the impugned order passed by learned JMJC,

Kaithal, are as under:-

“2. Briefly, the facts of the complaint are the complainant is the member of panchayat of Gram Panchayat for the two terms and is also social server of the Ror Sabha for the last 6/7 years and as such exercised social and political influence and status through out and various social and charitable organizations. The accused has a political rivalry with the complainant since 2000 and has been bent upon to harm the complainant on one or the other pretexts. In view to defame the complainant accused got a false complaint filed against the complainant filed in the court of Sh. Rajan Walia, Learned JMJC 1st class Kaithal criminal complaint no. 38 of 2010 making a false allegations under the scheduled caste and the scheduled tribe (prevention of Atrocities Act) 1989 in which false imputation were made with intent to harm the reputation of the complainant knowing and having reason to believe that such information would harm the reputation of the complainant. In the complaint filed by Kartara he used following information given as evidence, that on 25.12.2009 at about 5:30 P.M the complainant (accused Kartara) and his nephew Dalbir son of Ram Saroop who sitting in the house the complainant used derogatory words against Kartara s/o Maya Ram which was terms by Kartara in his complaint as “that he will see the complainant Kartara who said Gittal, Chamarda sale Deidh Jallad Chamarde to serpanch ke Gharwale ka Chamcha hai aur mein tuje dekuunga”. The complainant being social worker man is secular character and even not believe in castism which may amounts to division of society and never attend the above said words at any place what to speak of gathering in the village and all those above imputation were made intentionally to harm or knowing or having reason to believe that such imputation will harm the reputation of the complainant which amounts to defamation. The reputation of the complainant has lowered in the eyes and estimation of the mankind Ror society namely Balwinder s/o Bir Singh, Ramesh s/o Dhulia and Hardayal son of Chatra r/o Munaehri Tehsil & Distt. Kaithal. The reputation of the complainant has been lowered in the estimation of the said persons and the reputation has directly been lowered in moral and influential intellectual character of the complainant in the eyes of his relatives, friends and generally among public and thus his credit was lowered and it was considered as disgraceful by the respectables of the illaqa. The false complaint filed by the accused against the complainant has been dismissed in default on 13.05.2014. Hence, this complaint.”

Finding prima facie case, the accused was charge-sheeted under

Section 500 IPC, to which he pleaded not guilty and claimed trial. In after-

charge evidence, no witness was cross-examined. At the close of

complainant evidence, accused was examined under Section 313 Cr.P.C. He was confronted with the evidence of the complainant and he denied all the incriminating evidence against him and pleaded his innocence and false implication.

Learned JMIC, Kaithal, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 12.06.2017

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

Lower Court record was also requisitioned.

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

From the record, I find that present case has been filed under Section 500 IPC on the basis that accused Kartara has filed the complaint No.38 of 2010 in the Court of JMIC, Kaithal against the complainant by levelling false allegations under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, in which false imputations were made with intent to harm the reputation of the complainant knowing and having reason to believe that such information would harm the reputation of the complainant. As per case of the complainant, that complaint filed by the accused was dismissed in default on 13.05.2014. Learned counsel for the complainant admitted that complainant came to know regarding filing and averments of the complaint filed by the accused in the year 2010, which means that cause of action arose to the present complainant in the year 2010. As offence is punishable with maximum imprisonment of two years

cause of action, therefore, the present complaint which is filed on 04.08.2014 is time barred complaint. No application for condoning the delay has been filed alongwith the complaint.

Secondly, even on merit, I find that accused Kartara has availed his legal remedy by filing complaint before the Court against the present complainant and that complaint has been dismissed in default. There are no findings anywhere that the allegations levelled in the complaint filed by the accused were false or were made only with an intention to defame the complainant.

In view of the above discussion, I find that the impugned order dated 12.06.2017 passed by learned JMIC, Kaithal, 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.

December 04, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No