

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

CRM No.A-560-MA of 2016 (O&M)

Date of decision: August 02, 2018

Mahender Singh

...Applicant

Versus

Laxman and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mukesh Yadav, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Mahender Singh has filed this application under Section 378(4) read with Section 482 Cr.P.C. seeking permission for leave to appeal against Laxman and other respondents, challenging the impugned judgment dated 02.01.2016 passed by learned Judicial Magistrate Ist Class, Mohindergarh, vide which the 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 further stated that if the leave is not granted, it will cause miscarriage of justice. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant Mahender Singh filed a complaint against Laxman and 13 other accused under Sections 192, 193, 218, 468, 471, 167, 506 and 120-B IPC. The brief averments of the

Mohindergarh, are as under:-

“2. The complainant is the permanent resident of Adarsh Colony, Mohindergarh and had been appointed in the Higher Secondary School Bhagdana since 20.02.2007 to 12.06.2007 as DDO, village Bhagdana, PS Kanina, Tehsil and District Mohindergarh. He was also serving as Math teacher in the aforesaid school from 6.1.2000 to 12.6.2007. Smt.Kaushalya Devi who was serving as sweeper in the aforesaid school went on medical leave and came back to join her services accompanied with accused no.1 and 2. Accused no.1 and 2 requested him to allow her to join on aforesaid post without furnishing her medical fitness certificate. Complainant refused to grant her necessary permission in the absence of requisite documents. At this accused no.1 and 2 openly threatenend the complainant to withdrew his DDO power if he did not let Smt.Kaushalya Devi to join the post of Sweeper. Accused no.1 and 2 threatened him by saying that he was an influential person and he would teach him to do his job. Accused no.1 and 2 hatched a criminal conspiracy and snatched his DDO power and then joined as Head Master on 13.06.2007. Accused no.1 misused the power of his post and got joined Smt.Kaushalya Devi illegally without furnishing medical certificate and fitness certificate. Accused no.1 in connivance with accused no.2 got lodged a false complaint with the help of some private persons to the effect that in the year 2007-08 result of complainant was zero and thereafter accused no.1 while preparing a false and fabricated document got prepared the examination result of 2002-07. In fact, during the aforesaid years result of complainant was good. It is alleged that in order to screen the original result, accused had forged and fabricated a wrong document and sent it to District Education Officer, accused no.4 whereas no such allegation were levelled by the villagers against the complainant. Complainant requested the accused no.4 to take on record the genuine document, but his request fell on deaf ears.”

Only four accused namely Laxman Singh, Dayanand, Virender Singh DEO and Sudesh Kumar, DEO were summoned by the Court and were charge-sheeted under Section 167 IPC., to which they pleaded not guilty and claimed trial.

Learned JMIC, Mohindergarh, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated

02.01.2016.

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

Lower Court record was requisitioned.

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

The perusal of the findings given by learned Court below 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.

The perusal of the record shows that Laxman Singh is stated to be Head Teacher, whereas Virender Singh and Sudesh Kumar are DEOs. Admittedly, no sanction under Section 197 Cr.P.C. has been obtained before taking cognizance against these accused. Only on this ground, these accused are entitled to acquittal. Furthermore, perusal of the averments of the complaint shows that accused are not guilty of any offence. As per allegations, complainant was a Teacher in Higher Secondary School, Bhagdana and he was DDO. He states that Smt.Kaushalya Devi, who was serving as Sweeper, returned from medical leave and accused No.1 and 2 requested the complainant to allow her to join on aforesaid post without furnishing her medical fitness certificate and when he refused accused No.1

and 2, they threatened the complainant to withdraw DDO powers. It is also

the case of the complainant that on the next day, accused No.1 joined as Head Master and got joined Smt.Kaushalya Devi as Sweeper. Even, if it is taken that she had joined without giving medical certificate and fitness certificate, even then, departmental action can be taken but no offence is made out. Further, in the complaint, it is stated that both accused No.1 and 2 got lodged a false complaint with the help of some private persons to the effect that result of complainant was zero and thereafter, got prepared examination result and the complainant says that his result was good. Even, on the face of it, no offence is made out. Otherwise also, a reasonable doubt exists in the complainant's case and also, sanction has not been obtained against the accused-public servants.

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 02.01.2016 passed by learned JMIC, Mohindergarh, 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.

August 02, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No