

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-1506-MA of 2014

.....

Date of decision:20.9.2018

Hukam Chand Kalra

...Applicant

v.

State of Haryana and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Manoj Kumar Pundir, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against State of Haryana and Sohan Lal-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 23.08.2014 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, whereby the complaint filed under Sections 420, 467, 468, 471 and 120-B IPC has been dismissed and the accused-respondent No.1 has been acquitted of the charges as framed against him. During the pendency of proceedings accused No.2-Santosh Kumar died and criminal proceedings against him were dropped vide order dated 28.11.2013 passed by the Court below.

It has been mainly stated in the application that the accompanying appeal is being filed against the judgment dated 23.08.2014

passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, which is likely to succeed on the grounds mentioned therein. It has been stated that the impugned judgment of acquittal passed by the Court below is against the facts and circumstances of the case and also the law on the point. The learned Court below has wrongly acquitted accused No.1 (respondent No.2 herein) in the complaint filed by the applicant without appreciating the evidence available on record. It has, therefore, been prayed that this application be allowed and leave be granted to the applicant to file appeal.

From the record, I find that Hukam Chand Kalra-complainant filed complaint against Sohan Lal and Santosh Kumar for the offences under Sections 420, 467, 468, 471 and 120-B IPC. The brief facts of the case as noted down by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, in his judgment dated 23.08.2014 are as under:-

“The instant complaint has been moved by complainant on the averments that accused No.2 namely Santosh Kumar was owner of car marka Scorpio bearing registration No.HR-02Q-0067 and accused No.1 namely Sohan Lal was his son and he wanted to take loan and offered the complainant to pledge his car on the pretext that the same has been gifted by his father and thereafter an agreement was executed between them on 07.04.2007 in the presence of witnesses. After some time, a new development took place and accused No.2 offered for sale the car in question to the complainant for Rs.4,00,000/- and out of which Rs.1,00,000/- given by complainant stood paid and

remaining amount of R.3,00,000/- was to be paid to accused No.2 on 25.04.2007 and said amount was paid by complainant and an agreement was executed on the same day between them. At the time of execution of agreement and handing over the possession of the car, it was told by accused persons that the car is free from any kind of hypothecation and entire amount of loan has been repaid by them and in this regard they produced form No.35 i.e. document showing removal of hypothecation and forms No.28, 29 and 30 i.e. documents pertaining to transfer of car. It was also told by accused persons that the RC was misplaced by them and in this regard DDR No.18 dated 28.12.2006 was registered, but thereafter on 02.10.2007 the bank officials alongwith police officials came and told the complainant that an amount of Rs.6,00,000/- is standing as pledge amount on the car in question and they took away the possession of the car. In this regard many requests were made to register the FIR against the accused, but in vain and hence, the present complaint.”

On finding a *prima facie* case, charges against accused Sohan Lal were framed for the offences under Sections 420, 468 and 471 IPC, to which he pleaded not guilty and claimed trial.

After appreciating the evidence, the accused was acquitted by the learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, vide judgment dated 23.08.2014. Aggrieved from this judgment of acquittal, the

present appeal along with application seeking leave to appeal has been filed by the complainant.

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

From the record, I find that it is admitted as per the evidence on record that Santosh Kumar, who was father of the present respondent-Sohan Lal was the owner of the car. Santosh Kumar had executed the agreement to sell with the complainant. Santosh Kumar had received the amount as per the agreement. It is also clear from the record that Santosh Kumar had taken the loan by hypothecating the vehicle from the Bank etc. Santosh Kumar, who was the main accused had already died. As Sohan Lal had not entered into agreement to sell, he was not the owner of the vehicle, he has not received the money, therefore, the learned trial Court held that it was Santosh Kumar, who induced the complainant and cheated.

Keeping in view the above facts, I find that the reasoning given by the learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, 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 Court below 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 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

September 20, 2018.

(Inderjit Singh)
Judge

hsp

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