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CRM-A-2275-MA-2017 (O&M)

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

CRM-A-2275-MA-2017 (O&M)

Date of Decision: 15th January, 2018

Gurdip Singh

...Applicant

Versus

Sunita Kumari

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Onkar Singh Batalvi, Advocate
for the applicant.

AUGUSTINE GEORGE MASI, J. (ORAL)

CRM-33818-2017

Application is allowed subject to all just exceptions.

CRM-33819-2017

Prayer in this application is for condonation of delay of 16 days
in filing the appeal.

For the reasons mentioned in the application, which is
supported by the affidavit of the applicant, the same is allowed. Delay of 16
days in filing the appeal is condoned.

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This application for leave to file an appeal has been filed by
complainant-Gurdip Singh on the dismissal of his complaint under Sections
500 and 506 of the Indian Penal Code.

It is the contention of the learned counsel for the applicant that
a false application/complaint was filed by accused-respondent-Sunita

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Kumari (hereinafter referred to as 'respondent') defaming the applicant, which, on the basis of the evidence produced by him, clearly establishes that the offence was committed by her but still the Court, without appreciating the evidence produced by the applicant has ignored the same while dismissing his complaint and acquitted the respondent of the charges. The impugned judgment dated 12.07.2017 passed by the Chief Judicial Magistrate, Gurdaspur, cannot sustain and deserves to be set aside and the respondent is liable to be convicted and sentenced. Prayer has, thus, been made for allowing the application for leave to file an appeal.

I have considered the submissions made by the counsel for the applicant and with his assistance have gone through the impugned judgment.

Only photocopy of the application/complaint which is alleged to have been filed by the respondent has been produced on record. The said application/complaint has not been proved to have been duly signed by the respondent. Even the enquiry report which is stated to have been the outcome and reason for concluding that it is defamation on the part of the respondent has not been proved. The signatures of the respondent on the application has also not been identified by anyone. As regards the publication of the defamatory material on record and the contents thereof, which would lead to defamation of the applicant, two witnesses i.e. Santokh Singh (CW-1) and Surinder Bhanot (CW-2) have given self-contradictory statements with regard to their presence in the office of the Superintendent of Police, Head Quarter and regarding reading over of the contents of the

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application. The trial Court has rightly come to the conclusion that the statements of these two witnesses do not reconcile and therefore, their presence in the office of Superintendent of Police, Head Quarter, Gurdaspur, on the date of occurrence when the said application was read over i.e. 03.02.2014, does not stand established and is doubtful.

In any case, the trial Court has rightly concluded that the Superintendent of Police, Head Quarter, has no reason to speak out or read over the contents of the application when the enquiry was not going on and the two witnesses i.e. Santokh Singh (CW-1) and Surinder Bhanot (CW-2) had no connection with the said enquiry. That apart, respondent has not spoken out the contents of the complaint/application rather it is the Superintendent of Police, Head Quarter and therefore, she cannot be held liable for the same. The conclusions as have been drawn by the trial Court are fully justified and are based upon proper appreciation of the evidence brought on record. The impugned order dated 12.07.2017 passed by the Chief Judicial Magistrate, Guardaspur, does not suffer from any illegality or irregularity, which would call for any interference by this Court.

The present application for leave to file an appeal being devoid of merit, stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

15th January, 2018
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No