

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

CRM No.A-691-MA of 2018 (O&M)

Date of decision: November 20, 2018

Jagdev Singh

...Applicant

Versus

Rajwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Achin Gupta, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Jagdev Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Rajwinder Singh and other respondents, challenging the judgment dated 10.01.2018 passed by learned Judicial Magistrate Ist Class, Bathinda, whereby 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, therefore, prayed that leave to appeal be granted.

As per the record, complainant Jagdev Singh filed a complaint against accused Rajwinder Singh, Sarpanch, Jagsir Singh, Gurtej Singh, Jagseer Singh, Baltej Singh, Golo Kaur, Amarjit Kaur, Member Panchayats, Jagjit Singh, Manmohan Singh, Jagsir Singh, Lakhveer Singh, Jarnail Singh

and Amrik Singh under Sections 499, 500, 120-B IPC. The brief averments

of the complaint as noted down in the judgment passed by learned JMJC, Bathinda, are as under:-

“1. In brief, the facts of the present complaint are that the complainant is a permanent resident of village Kothe Nathiana, Tehsil and Distt Bathinda and he is a peace loving and law abiding citizen of India. The complainant is an active worker of the congress party and also remained Member Panchayat of village Kothe Nathiana and he has been enjoying the good reputation amongst his family, friends, relatives, and general public at large. Accused no.1 is worker of the Akali Party and the accused no.2 to 13 are also supporters of the Akali Party and as such the accused are political rivals of the complainant. It is also added to that the complainant had contested the election of Sarpanch of village Kothe Nathiana against the accused no.1 Rajwinder Singh but however the accused no.1 won the election for the office of Sarpanch being an influential person and having links with the political ups of the ruling akali party while the complainant was declared as defeated candidate and since the complainant contested the election against accused no.1. For the office of Sarpanch, as such accused no.1 started nursing a grouse against the complainant and the accused, who have formed a gang, have been looking for a chance to harass, humiliate and maltreat the complainant, to lower the reputation of the complainant in the eyes of his family members, friends, co-villagers and political bosses of the complainant with an ulterior motive to ruin the political career of the complainant. It has been further submitted that one Veerpal Kaur wife of Jasvir Singh is residing at village kothe Nathiana for the last 4 years alongwith her husband and the minor children and is a very poor lady and she is doing the work of knitting, stitching and sewing etc. in order to feed herself and her children. On 15.11.2013, one Rama Singh son of Jaila Singh, entered into her house at about 8.30pm in a drunkard condition and mis-

behaved with her against her pride and honour and even torn the shirt of Veerpal Kaur and on raising hue and cry by her, aforesaid Rama Singh tried to ran away from the spot and in the mean time, complainant reached at the spot and caught hold the aforesaid Rama Singh who tendered apology and lateron, the matter was also taken up before the Panchayat by Veerpal Kaur and the complainant but however no compromise could be effected between Veerpal Kaur and Rama Singh and ultimately, she got lodged an FIR No.133 dated 20.11.2013 against Rama Singh u/s 354 IPC in PS Nehianwala and the complainant was cited as a witness by Veerpal Kaur as the complainant had reached at the spot and had witnessed the said occurrence. The accused were willing to help Rama Singh but however since the complainant helped the aforesaid Veerpal Kaur, as such the accused in furtherance of their evil designed motives and out of their person grouse and sheer jealousy with the complainant, passed a false and frivolous resolution dated 22.11.2013 leveling some false allegations against Veerpal Kaur that she is lady of loose character and also leveled false allegations against the complainant that said Veerpal Kaur is living with Jagdev Singh at fourth place and submitted the same to Hon'ble SSP Bathinda alongwith covering letter dated 22.11.2013 which is marked to DSP Bhucho Mandi for inquiry. The accused also got recorded a common statement before the IO on 21.3.2014 which was duly signed by all the accused and even the statement of the complainant as well as Veerpal Kaur were also recorded and ultimately, the said application was dismissed and filed by the Ld.DSP Bhucho Mandi vide enquiry report no.485/5E/DSP Bhucho dated 16.5.2014 with the observation that the allegations leveled by the accused are not proved and the application has been filed only in order to put pressure upon Veerpal Kaur to compromise the matter with Rama Singh. The accused, in connivance and collusion with

each other and with common object, leveled totally false allegations against the complainant knowing it fully well that the same are false, baseless and the same were leveled by the accused with an intention to malign the reputation of the complainant in the eyes of his family members, friends, relatives and in the general public. The accused persons have committed the offences punishable under sections 499/500/120-B IPC. Hence, the present complaint.”

Finding prima facie case, the accused were charge-sheeted under Sections 500 and 120-B IPC, to which they pleaded not guilty and claimed trial.

The complainant examined himself as CW-1, CW-2 Vakeel Singh and CW-3 Veerpal Kaur. At the close of complainant evidence, the accused were examined under Section 313 Cr.P.C. They were confronted with the evidence of the complainant and they denied all the incriminating evidence against them and pleaded their false implication. In defence, accused examined DW-1 Paramjit Kaur.

Learned JMIC, Bathinda, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 10.01.2018.

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

I have heard learned counsel for the applicant 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

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 findings shows that these are given as per evidence as in the Resolution, which is passed by the Gram Panchayat, it is written that "Veerpal Kaur is resident of Kothe Nathinan, District Bathinda and she is a lady of bad character and Jasvir Singh is her husband and the said Veerpal Kaur is living with Jagdev Singh at fourth place and wrong ladies and gents used to come to Veerpal Kaur and she is indulging in illegal activities'.

Learned Court below held that firstly the entire allegations are against Veerpal Kaur and there is not even a single allegation against the complainant. Furthermore, only 'Jagdev Singh' is written and present complainant himself presuming himself to be that Jagdev Singh. Neither father's name is mentioned nor address has been mentioned of that Jagdev Singh. The Court held that Resolution was passed and it was sent to the Senior Superintendent of Police and the resolution has not been published in the public and the panchayat has not taken any action on it. Learned Magistrate relied upon the law laid down by this Court by discussing two judgments, in which, it has been held that sending of complaint to the competent authority to look into the matter, in no way, amounts to publication of defamatory material. The facts are being brought to the notice of the competent authority and it is for the competent authority to take any action or to make enquiry or not. If the competent authority is not

taking any action, in no way, it can be held that contents of the complaint are false.

From the record, I find that in the present case, necessary ingredient of publication is missing. There is no averment that the Resolution in question was passed to defame the complainant. Furthermore, as already discussed, the father's name and address of the complainant are not mentioned and only one 'Jagdev Singh' has been written. If the present complainant is not residing with Veerpal Kaur, then he has not been defamed at all and the Resolution has not been passed mentioning him.

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-respondents have 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 10.01.2018 passed by learned JMIC, Bathinda, 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.

November 20, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No