

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

**CRM No.A-827-MA of 2016 (O&M)
Date of decision: November 30, 2018**

Hardeep Singh

...Applicant

Versus

Shakti Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jagjit Singh, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Hardeep Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Shakti Chand, challenging the order dated 17.02.2016 passed by learned Judicial Magistrate Ist Class, Jalandhar, 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, therefore, prayed that leave to appeal be granted.

As per the record, complainant Hardeep Singh filed a complaint against accused Shakti Chand under Sections 499 and 500 IPC. The brief averments of the complaint as noted down in the impugned order passed by

learned JMJC, Jalandhar, are as under:-

“1. The complainant has filed instant complaint, contending that the complainant is a law abiding citizen, commanding great respect and reputation amongst all. The complainant is stated to be posted as Deputy Supt. of police, GRP at Jalandhar and has put his entire life in service of the nation. The service career of the complainant is stated to have remained unblemished. Accused is stated to have retired from police department. It is contended that one Subash Chander was allotted railway land by the Railway Department and he was in possession of the said land, having sown crops and also having installed a diesel engine for irrigation of the land. The accused is alleged to have been interfering in the peaceful possession of said Subash Chander by claiming that the land in question was of the central government and not the Railway Department. In this regard, both civil and criminal proceedings are stated to be pending before the courts. It is alleged that the accused is also filing false and frivolous complaints against the complainant, levelling false allegations. It is alleged that the accused had moved a complaint in police station GRP, Jalandhar dated 19/10/2012, levelling false allegation against the complainant. In a complaint moved against Subash Chander as well as the complainant, the accused is alleged to have stated that Subash Chander in connivance with the complainant might commit theft over the railway land. Upon receipt of the said complaint, accused Shakti Chand and his son are stated to have been called in the office of the complainant at railway station, Jalandhar city to clarify their position about the derogatory remarks. The accused are alleged to have remarked that the complainant is a man without virtue and supports the thieves. The aforementioned imputation in reference to the complainant is stated to have been made in presence of the enumerated witnesses. The aforementioned imputation is stated to be defamatory and made orally with intention to harm the reputation of the complainant. Even the complaint is alleged to be a one-sided version of the accused in order to create false opinion about the complainant. The defamatory remarks made by the accused are stated to be absolutely false and made only with intent to harm the reputation of the complainant. The complaint is claimed to have been circulated, being read by all, tarnishing the image of the complainant in public at large, as also amongst the friends, neighbours and relatives. Hence this complaint.”

On the basis of preliminary evidence, the accused was summoned to face trial under Section 500 IPC. In pre-charge evidence, the complainant examined himself as PW-1, PW-2 Subhash Chander, PW-3

Narinder Singh and PW-4 Balwinder Singh. The accused was charged under Section 500 IPC, to which, he pleaded not guilty and claimed trial.

In after-charge evidence, complainant himself stepped into witness box as CW-1 and examined CW-2 Baldev Singh, SI/SHO, GRP, Ludhiana. At the close of complainant evidence, the 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. In defence, accused examined DW-1 Sucha Singh and DW-2 Vivek Kumar.

Learned JMIC, Jalandhar, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 17.02.2016.

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 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.

From the record, I find that as per the complainant's case,

accused and his son were summoned by him in the office to explain

derogatory remarks and then accused remarked that the complainant is a man without virtue and supports the thieves but when cross-examined, the complainant admitted that accused Shakti Chand had been summoned but he refused to come on the ground that complainant had been provided with government vehicles and therefore he could come to the place of residence of the accused to make any enquiry. Therefore, the version of the complainant regarding uttering of defamatory words in his office becomes doubtful.

Furthermore, it also looks unnatural that in the office of DSP, so many persons were present. CW-2 SI/SHO, GRP, Ludhiana, has appeared in the witness box and stated that he received the complaint Ex.P1 and it was opened by him. Nobody was present and nobody came to know regarding the contents of the complaint. Moving of complaint to the competent authority or to the public servant itself will not amount to publication. The accused has given the complaint to SHO regarding his grievance. Therefore, in no way, it can be held that the contents of the complaint are meant for general public for the purpose of defaming the complainant. When this complaint has not been published to anybody, then publication of defamatory material is also not proved.

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 17.02.2016 passed by learned JMIC, Jalandhar, is correct,

Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

November 30, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No