

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

CRM-A-892-MA-2014

Date of decision:-2.2.2018

Gurnam Singh

...Applicant

Versus

Ranjodh Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Vijay Lath, Advocate
for the applicant.

Mr.G.S. Bhandal, Advocate
for the respondent.

H.S. MADAAN, J.

Applicant – Gurnam Singh has filed this application under Section 378(4) Cr.P.C. seeking special leave to appeal.

Briefly stated, facts of the case are that complainant – Gurnam Singh had brought a criminal complaint under Sections 500/506/509 IPC against Ranjodh Singh on the assertions that he is a law abiding citizen enjoying good reputation and respect in the society; that he along with Jagtar Singh had applied for the post of Lambardar of village Rattipur, which had fallen vacant as a result of death of the earlier Lambardar Sh.Baldev Singh; that during the proceedings for appointment of Lambardar before Assistant Collector Ist Grade, Machhiwara accused Ranjodh Singh appeared as a witness for Jagtar Singh and tendered in evidence an affidavit dated 31.10.2007 therein levelling wrong allegations against the complainant to the effect that the

complainant was treated for two months at Kala Mental Hospital and Sandhu Hospital, Patiala in the year 2002, since he was not mentally fit and in the year 2005, the complainant remained admitted in Guru Kirpa Nasha Chhudao Kendar, Kharar for drug de-addiction; that it was so done in order to lower reputation of the complainant. According to the complainant, the language used in the affidavit was defamatory in nature, resultantly his reputation was injured and lowered in the society inasmuch as several persons inquired from him regarding his mental ability and they would crack jokes at his back.

After recording preliminary evidence, accused was summoned under Section 500 IPC.

On appearance of the accused in the Court, he was admitted to bail and notice of accusation under Section 500 IPC was served upon him, to which, he pleaded not guilty and claimed trial.

During his evidence, the complainant examined Ajit Singh as CW1, Paramjit Singh as CW2 while getting his own statement recorded as CW3 besides tendering documents Ex.C1 to Ex.C15.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to him but he denied the allegations and pleaded false implication.

In defence evidence, accused examined Guriqbal Singh as DW1, Siya Ram as DW2 besides tendering documents Ex.D1 to Ex.D3 and Mark-D4.

After hearing arguments, the trial Magistrate had dismissed the complaint. The relevant part of the judgment for arriving at such

conclusion, is as under:

In order to constitute the offence of defamation, it was required to be proved by the complainant that the imputation so made should be published concerning him with knowledge or having reason to believe that such imputation will harm the reputation of complainant subject to exceptions as contained in Section 499 of IPC. Exception IX says that it is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good. As discussed earlier, the affidavit was given in Lambardari proceedings only. It was not published by the accused in general public as admitted by the witnesses of the complainant. If the accused has filed the affidavit regarding the mental condition of the complainant and his admission in the hospital for this purpose, it does not mean that it was filed in order to defame the complainant. DW1 in his examination-in-chief deposed that the affidavit was given for the purpose to have the post of Lambardar and his grandfather had also filed the affidavit regarding the post of Lambardar. He also deposed that in the affidavit it was mentioned that the post of Lambardar was to be given to a social person. It is factually clear that even after filing of the affidavit the complainant was appointed as

Lambardar meaning thereby that affidavit has not effected the appointment of complainant as Lambardar. From the facts and circumstances of the present case and the preponderance of probabilities as brought on record, I am of the view that the affidavit was not tendered by the accused in order to defame the complainant. Here, the reference of judgment passed by the Civil Court Exhibit-D1 is very important vide which the suit of the complainant for compensation on account of filing of the said affidavit by the accused has been dismissed also shows that the plaintiff in that civil suit has failed to establish any compensation on account of filing of the affidavit in question.

Although DW2 who had brought the medical record of one Gurnam Singh of Machhiwara and not of Rattipur as admitted in his cross-examination that he has not brought the record of Gurnam Singh of village Rattipur and has brought the record of Gurnam Singh of Machhiwara. The record produced by him depicts the name of Gurnam Singh of Machhiwara and the disease of depression in Exhibit-D2/A on the second page and also shows the name of Gurnam Singh on Exhibit-D3. The complainant in his cross-examination has also admitted that he runs his business from Machhiwara. So, in such circumstances, it cannot be said that the allegations as contained in the affidavit filed during Lambardar proceedings was filed with malafide intention. By examining DW2 from the Kala

Mental Hospital shows that accused was having some bonafide belief that some person in the name of complainant was treated for the disease as mentioned in Exhibit-D2/A although DW2 has admitted that he has not brought the record pertaining to the admission of Gurnam Singh son of Joginder Singh in the hospital. As discussed earlier, I am of the view that the affidavit regarding the allegation on the character of the complainant was filed by the accused in good faith because by filing so he was protecting his interest and also for the public good. The counsel for the accused during the arguments has also placed on record the map of area of Machhiwara and also filed a copy of description of the villages of Punjab wherein Village Rattipur has been shown in the Tehsil Samrala and post office as Machhiwara which further shows that the evidence brought by DW2 showing the admission in the hospital of Gurnam Singh was of Machhiwara. At this stage, it is also pertinent to mention there that the complainant in his cross-examination has also admitted that he runs his business from Machhiwara. Therefore possibility of getting treatment from the hospital the record of which has been brought on record by DW2 cannot be totally ruled out in the given facts and circumstances of present case. This further again shows that the accused might have some bonafide belief regarding the admission of complainant in the hospital regarding his treatment for

depression in the Kala mental hospital as mentioned in the affidavit in dispute.

From the above discussion, I am of the view that the case of the complainant falls in IX exception of Section 499 of IPC and no offence is made out of defamation against the accused and therefore the accused is hereby acquitted from the charges as framed against him for his allegedly committing the offence of defamation punishable under Section 500 of IPC.

The impugned order left the complainant aggrieved and he has knocked at the door of this Court by moving an application under Section 378 (4) Cr.P.C. for grant of special leave to appeal against the judgment of acquittal, notice of which was issued to the accused, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the complainant has referred to the citations i.e. **Sukra Mahto Versus Basudeo Kumar Mahto and another, 1971 AIR(SC) 1567** and **Sopullo Datta Naik Dessai Versus Yeshwant Govind Dessai and another, 2010(3) Bom.C.R.(Cri.) 185.**

The trial Court has discussed in detail various circumstances giving rise to causing doubt in the mind about the truthfulness of story put forward by the complainant. I do not find any illegality and irregularity in the judgment passed by the learned trial Court. Rather it is based upon proper appraisal and appreciation of

evidence and correct interpretation of law.

As regards the authorities referred to by learned counsel for the complainant, those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

Thus, no ground is made out to grant special leave to appeal in this case. The application is, therefore dismissed accordingly.

2.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No