

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1651-MA-2018 (O&M)

Date of decision: 12.04.2019

Ghila Singh

..... Appellant

Versus

Budh Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. A.P.S. Deol, Sr. Advocate with
Mr. Arshdeep S. Brar, Advocate
for the appellant.

ANIL KSHETARPAL, J.

Application under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal has been filed against dismissal of the complaint under Sections 182/199/200/209/499/500 of the Indian Penal Code by Sub-Divisional Judicial Magistrate, Phul dated 31.03.2018. The appellant claimed that he is a landlord having agriculture land and has succeeded in life on the basis of sheer hard work. The complainant claims that he is a reputed person known for his reputation, sincerity and honesty in the locality as well as all over Punjab and due to acts of the accused who has leveled allegations that complainant-appellant is a smuggler and a cheater by filing various complaints in writing as also publicly, has lowered the reputation of the appellant. Learned trial Judge has held that the complainant has failed to prove its case. The trial Judge has recorded following reasons to dismiss the complaint filed by him:-

1. No witness by the complainant has deposed in the Court as to how the reputation of the complainant has been lowered in the public.

2. The complainant suppressed the material facts about the FIR No.02 dated 17.07.1992 and FIR No.41 dated 26.05.2000 registered against him.

3. No witness examined on behalf of the complainant was found worthy of credit.

4. Mere filing of applications to the various authorities which were found to be false does not fulfill the basic ingredients of Section 499 of the Indian Penal Code.

5. It has come on record that the complainant has received a sum of Rs.6,00,000/- from the accused but refused to return the amount.

This Court has heard learned senior counsel for the appellant and with his able assistance gone through the judgment passed by the trial Court.

Learned senior counsel has submitted that the complainant was successful in proving its case and the Court has erred in dismissing the complaint. He further submitted that the Court has erred in by holding that the reputation of the complainant/appellant has not been lowered.

This Court has considered the submission, however, find no substance therein.

The arguments of learned senior counsel are not acceptable as this Court while granting or refusing leave to appeal is to examine the overall facts of the case and can interfere only if the judgment passed by the Court is prima facie proved to be perverse or result of substantive misreading or non-reading of evidence. As noticed above, the learned trial

Judge on appreciation of evidence has found certain facts which have not been disclosed by the complainant by filling the present complaint. The dealings between complainant and the accused are admitted by Charanjit Singh who has been examined as CW-4. The applications filed by the accused against the complainant on account of refusal to return the amount are to protect his interest and in view of IXth exception to Section 499 of the Indian Penal Code, such imputations cannot be made basis to convict the accused for defamation. The learned trial Court has given cogent reasons while dismissing the complaint. Hence, there is no ground to grant leave to appeal.

Consequently, the application for leave to appeal is dismissed.

12.04.2019

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No