

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-2267-MA of 2017

.....

Date of decision:16.01.2019

Yudhbir Singh

...Applicant

v.

Raj Pal Yadav

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Prem Chand Yadav, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Raj Pal Yadav-respondent seeking grant of leave to file appeal against the impugned judgment of acquittal dated 29.07.2017 passed by learned Additional Chief Judicial Magistrate, Rewari, whereby the complaint filed under Sections 499 and 500 IPC has been dismissed and the accused-respondent has been acquitted of the charges as framed against him.

It has been mainly stated in the application that the accompanying appeal is being filed against the judgment dated 29.07.2017 passed by learned Additional Chief Judicial Magistrate, Rewari, which is likely to succeed on the grounds mentioned therein. It has been stated that the trial Court arbitrarily and without evaluating the evidence passed totally unjustified judgment. It has been stated that the applicant will suffer an irreparable loss and injury in case leave to appeal is not granted to him. It has, therefore, been prayed that this application be allowed and leave be

granted to the applicant to file appeal.

From the record, I find that Yudhbir Singh-complainant filed complaint against Raj Pal Yadav for the offences under Sections 499 and 500 IPC. The brief facts of the case as noted down by learned Additional Chief Judicial Magistrate, Rewari, in his judgment dated 29.07.2017 are as under:-

“Brief facts as stated in the complaint are that the complainant is an Advocate practicing in District Court, Rewari. He is a reputed person of the society as well as in his profession. The accused is serving as an Inspector in ITBP at New Delhi and at present he is serving in the Ministry of Home Affairs. The accused is in habit of writing false and defamatory letters against the general people and particularly against the complainant. He has written several defamatory letters/applications through his officers. In those letters, he has used false and defamatory words against the complainant and his deceased father. The para no.6 of the letter written by the accused has been reproduced in the complaint, which is reproduced here as under :

“Sh. Dharam Pal is an unsocial person and his son Yudhbir Singh is a defaulter of Police about 20 – 25 years back as he attack on Police man who was on routine enquiry in village.”

The above said defamatory letters have damaged the reputation of the complainant and his deceased father. The

complainant sought the information under RTI Act regarding the letters written by accused against the complainant, but the RTI Clerk from SP office, Rewari intentionally delayed the delivery of these letters to the complainant. The complainant received those letters under RTI Act on 06.12.2010 and the same were signed by the signing authority on 02.12.2010. So now the complainant immediately filed the present complaint. With these allegations, it is requested that the accused may be summoned, tried and punished for commission of offence under Section 500 IPC.”

The accused was summoned for the offence under Section 500 IPC. Notice of accusation under Section 500 IPC was served upon the accused, to which he pleaded not guilty and claimed trial.

In order to prove his case, the complainant examined PW-1 Constable Ranbir Singh, PW-2 Satbir Singh, PW-3 Sajjan Kumar and himself appeared as PW-4 and closed his evidence.

At the close of complainant's evidence, the accused was examined under Section 313 Cr.P.C. and was confronted with the evidence of the complainant, but he denied the correctness of the same and pleaded himself as innocent and deposed that he has been falsely implicated in the present case. In defence, the accused examined Hari Chand, Record Keeper, DC Office, Rewari as DW-1 and closed his evidence.

After appreciating the evidence, the accused was acquitted by the learned Additional Chief Judicial Magistrate, Rewari, vide judgment dated 29.07.2017. Aggrieved from this judgment of acquittal, the present

appeal along with application seeking leave to appeal has been filed by the complainant.

I have heard learned counsel for the applicant and have gone through the record.

From the perusal of the complaint itself, I find that the publication of defamatory material is not established. The complainant in the complaint nowhere stated as to whom this complaint was addressed by Raj Pal Yadav. There is general allegation that the accused used to write defamatory material against the people in general and the complainant in particular. As per the complainant's version in the complaint itself this letter was not addressed to the complainant nor to any person in the public or his relative or near and dear ones. Rather, as per the complaint, the complainant himself applied for copy of the letter under the R.T.I. and then this complaint was filed. As per the complainant's version, these letters were received by the Superintendent of Police, Rewari and the same were forwarded to S.H.O. Nothing has been mentioned as to whether any inquiry has been made or whether any other persons have come to know regarding the contents of those letters. There is also nothing in the complaint that by writing letters to the S.P. it has come to the notice of any general public or person or relative etc. There is also no mention that due to this defamatory material, the reputation of the complainant has lowered in the eyes of general public. Making complaint to the SP itself does not amount to publication of defamatory material. As already discussed, even the complainant could not come to know regarding the contents of letters and he came to know regarding the contents of letters after receiving the same

when he applied for the copy of the letter under the R.T.I. Act and received the same. Therefore, one of the necessary ingredients regarding publication of the defamatory material is missing in the present case. The learned trial Court has appreciated the evidence in right perspective.

Keeping in view the above facts, I find that the reasoning given by the learned Additional Chief Judicial Magistrate, Rewari, are as per evidence and law. In no way, the findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered by the Court below. The findings have been given by the Court below after appreciating the evidence in right and proper perspective which are as per evidence and law and the same do not require any interference from this Court and the same are upheld.

From the above, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

January 16, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No