

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.36339 of 2017
and
Criminal Misc. No.A-2406-MA of 2017

.....

Date of decision:18.01.2019

Ajay Kumar

...Applicant

v.

Sunil Nagpal

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. D.K. Prajapati, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.36339 of 2017:

For the reasons mentioned in the criminal miscellaneous application, the delay of 249 days in filing the present appeal along with application seeking leave to appeal is condoned.

The criminal miscellaneous application is allowed.

Cr. Misc. No.A-2406-MA of 2017:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Sunil Nagpal-respondent seeking grant of leave to file appeal against the impugned judgment of acquittal dated 20.12.2016 passed by learned Judicial Magistrate Ist Class, Faridabad, whereby the complaint filed under Sections 323 and 506 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 accompanying appeal is being filed against the judgment dated 20.12.2016 passed by learned Judicial Magistrate Ist Class, Faridabad, which is likely to succeed on the grounds mentioned therein. It has been stated that if leave is not granted to file appeal, then the appellant will suffer with huge loss. 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 Ajay Kumar-complainant filed complaint against Sunil Nagpal for the offences under Sections 323 and 506 IPC. The brief facts of the case as noted down by learned Judicial Magistrate Ist Class, Faridabad, in his judgment dated 20.12.2016 are as under:-

“The facts giving rise to filing of present complaint are that complainant is a resident of house No.5-M/22, NIT, Faridabad, District Faridabad. The wife of complainant namely Smt. Indu is absolute owner and in possession of one shop/plot bearing No.M-5/23 NIT, Faridabad, having an area of 7.3 sq. yards. Accused having good relations with local politicians and had intention to grab the said property of the complainant was making regular threats to the complainant as well as his wife either to sell the same to him otherwise he would sell the same to some other person on the basis of forged documents and also threatened to kill the complainant as well as his wife. In this regard, the complainant also filed a civil suit against the accused. It is further alleged that on 23.01.2012 at about 12.15

P.M., when the complainant was going to market and when he reached near Daya Nand Women College, accused along with 7-8 unknown gunda type persons stopped him forcibly and gave severe beatings to him and also used filthy language and threat to withdraw the above said civil suit otherwise they will kill him. Again on 03.03.2012 at about 07.45 A.M. accused forcibly stopped the complainant and gave fist blows on his face and also threatened to kill him. Thereafter, complainant reported the matter to police but no action was taken by the police. Hence, the present complaint.”

The complainant examined himself as CW-1 and deposed regarding documents/copies of complaints made to the Commissioner of Police, Faridabad, copy of courier receipt, copy of RTI and Mark-A and Mark-B copies of complaints and other copies, which are marked documents.

At the close of complainant's evidence, the statement of the accused was recorded 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 his false implication.

On finding a *prima facie* case, charges against accused were framed for the offences under Sections 323 and 506 IPC, to which he pleaded not guilty and claimed trial.

After appreciating the evidence, the accused was acquitted by the learned Judicial Magistrate Ist Class, Faridabad, vide judgment dated 20.12.2016. 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.

A perusal of the record shows that there is no medical evidence produced on the record. There is no corroboration to the statement of the complainant by medical evidence. Furthermore, even there is no statement of any other witness to support and corroborate the complainant's case. The allegation against the accused is that he caused simple hurt to the complainant on 23.02.2012, but the complaint has been filed on 16.03.2012 after a long delay.

Keeping in view the above facts that there is only solitary statement without any corroboration and there is delay in recording the statement, the accused has been rightly acquitted by the learned trial Court by giving benefit of doubt. The findings given by the learned Judicial Magistrate Ist Class, Faridabad, in the impugned judgment dated 20.12.2016 are correct 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 18, 2019.

(Inderjit Singh)
Judge

hsp

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