

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-2434-MA of 2017

.....

Date of decision:05.03.2019

Jaspreet Singh

...Applicant

v.

Baljit Singh

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Amit Gupta, 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 Baljit Singh for grant of leave to appeal against the impugned judgment dated 5.7.2017 passed by learned Judicial Magistrate Ist Class, Patiala, vide which the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') has been dismissed and the accused has been acquitted of the charges as framed against him.

It has been mainly submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It has been stated that if the leave to appeal is not granted the complainant/appellant would suffer irreparable loss and injury. It has, therefore, been

prayed that this application be allowed and leave be granted to the applicant to file appeal.

As per the averments made in the complaint, the accused and his son, namely, Manpreet Singh were known to the complainant and there exist friendly relationship. They have taken ₹1.5 Lakhs on various dates that is on 19.1.2015 ₹90,000/- through cheque No.255891 and ₹50,000/- on 20.1.2015 through cheque No.255892 and ₹10,000/- in cash on 20.1.2015 for the purpose of handing over the same to Sandeep Kaur, with whom son of accused (Manpreet Singh) was having a matrimonial dispute. Written agreement was also executed on 21.1.2015 in the presence of witnesses. It is also stated that on 15.3.2015, the complainant demanded his money back and in order to discharge his liability, the accused issued cheque No.000004 dated 20.3.2015 for a sum of ₹1.5 Lakhs, which on presentation for encashment was returned back with the remarks “payment stopped”. Legal notice was given. When the amount was not paid, the complaint was filed.

The complainant examined himself as CW-1, CW-2 Ravinder Singh Mahant, CW-3 Ravinder Singh and CW-4 Balwinder Kumar and closed his evidence.

At the close of complainant's evidence, the accused was examined under Section 313 Cr.P.C. and confronted with the evidence of the complainant, but he denied the correctness of the same and pleaded himself as innocent. He also taken the plea as noted down in the impugned judgment dated 5.7.2017 passed by learned Judicial Magistrate Ist Class, Patiala, as under:-

“Jaspal Singh, Amandeep Singh and Jaspreet Singh are in fact

close relatives. However I have grudge/enmity against Jaspreet Singh since he has performed marriage of my son Manpreet Singh without taking consent with Rajni Sagar i.e. the second wife of my son Manpreet Singh. I have even moved an application against my son that he in connivance with some granthi has performed the marriage without taking the consent of parents. Later on it revealed that the said Granthi was Jaspreet Singh. Even I have met Jaspreet Singh before DSP Manjit Singh Brar in connection with the complaints moved by my daughter in law Sandeep Kaur to IG Punjab Patiala range against my son Manpreet Singh, Rajni Sagar, Karamjit Singh, Sarita Sagar and against unknown Granthi (Jaspreet Singh who was revealed later on) and complaint moved by me to IG Punjab Patiala range against Manpreet Singh and others. Jaspreet Singh has even given statement before DSP Manjit Singh Brar then only I came to know that unknown granthi is Jaspreet Singh and in his statement he has stated that before delivering the certificate and executing the marriage I take affidavit of the party and when he presented the affidavit of Rajni Sagar and my son Manpreet Singh with regard to the marriage then the date on the affidavit was shown to be of 6th of March 2014 but the certificate of marriage which he has shown and was given alongwith statement was of 9th of February 2014. On this the police has even sealed his register and when he found himself in the clutches of police during investigation

then he allured my son Manpreet Singh that he will get the matter compromised with Sandeep Kaur. Meaning thereby Jaspreet Singh was aware of the first marriage. This compromise was effected in Police Station Doraha and I have sent my wife alongwith my son Manpreet Singh to execute the compromise and I have also handed over to him my cheque book in which two cheques were signed and third cheque was having only sign on the back alongwith three stamp papers which I have purchased from Mini Secretariat Patiala out of which one belong to me, one to my wife and one to my son. Sandeep Kaur did not take this cheque and the compromise was settled in 3.5 lacs. Before proceedings to Police Station Doraha my son also taken his one blank signed cheque with him but these cheques were since not accepted by Sandeep Kaur as such my cheque book alongwith three stamp papers and one cheque of my son Manpreet Singh alongwith other documents were coincidentally left in the car of Jaspreet Singh which were never thereafter traced and when the whereabouts of the same were asked from Jaspreet Singh he kept silent. It is pertinent to mention here that Jaspreet Singh has taken my son and my wife to police station Doraha to execute the compromise. I and my son thereafter have demanded the documents and the cheque book and the blank cheque of Manpreet Singh but he kept the matter pending as such I approached my bank i.e. Bank of India main branch and has even given application dated 16.3.2015

with regard to the loss of cheque book and as such have requested the bank to get the payment stopped and on my request the bank has stopped my payment. Out of the three cheques the present cheque is one of them. All the three cheques of mine and one of my son Manpreet Singh have been manipulated by Jaspreet Singh. I have been falsely implicated by the complainant in the present case.”

In defence, the accused examined DW-1 Mamraj Clerk, BOI, who proved authorization letter Ex.DW.1/A, certified copy of stop payment intimation Ex.DW.1/B, identification card Ex.DW.1/C, certified copy of account statement of accused Ex.DW.1/D and account opening form Ex.DW.1/E. DW-2 HC Jagat Singh, SSP Branch, Patiala, proved attested copies of record pertaining to complaint No.717/FR of Sep. 2014 from Ex.DW.2/A to Ex.DW.2/G and Mark A. DW-3 Jaswinder Kaur Gill, Stamp Vendor who brought on record copy of stamp vender register from 5.1.2015 to 26.2.2015 reflecting entry No.800, 801 and 803 Ex.DW.3/A.

The learned Judicial Magistrate Ist Class, Patiala, vide impugned judgment dated 5.7.2017 after appreciating the evidence acquitted the accused. Aggrieved from the said judgment, the present appeal along with application seeking leave to file 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 record, I find that the case is proved by

DW-1 by bringing letter regarding intimation of stop payment. As per the

findings this payment was stopped on 16.3.2015 with regard to the loss of the cheque book. The cheque is stated to be dated 20.3.2015. Further the accused has got produced the record of the stamp vender which is Ex.DW.3/A qua the entries of stamp papers which shows that these stamp papers were purchased by the accused, his wife and his son. Furthermore, a perusal of the bank account statement Ex.CW.3/A shows that entries dated 19.1.2015 and 20.1.2015 do not prove that this amount has been encashed by the accused. The entry dated 19.1.2015 shows the name of “Manpreet Singh”. But, it is not clear from this that Manpreet Singh is the son of the accused. Secondly, even if for the sake of argument it is taken to be son of accused, then the consideration is not passing to the present accused. Similarly, there is no remarks against the entry dated 20.1.2015. The accused has also produced HC Jagat Singh to support the defence version regarding the complaints, statements and inquiry reports.

It is settled law that presumption can be rebutted by raising probable defence. In the present case, the complainant also failed to show the friendly relations between the complainant and the accused. Rather, it looks that the accused had filed complaints against the complainant.

A perusal of the record shows that the findings given by the trial Court, in no way, can be held as perverse. Nothing has been pointed out as to how the findings are perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and as to which material evidence has not been considered by the Court below. There is nothing on the record to show that the findings are against the evidence or law. 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.

March 05, 2019.

(Inderjit Singh)
Judge

hsp

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