

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

CRM No.A-966-MA of 2017 (O&M)

Date of decision: February 27, 2019

Parveen Kumar

...Applicant

Versus

Naresh Kumar @ Kaliya

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sumit Sangwan, Advocate
for the applicant.

Mr.Rajinder Mathur, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-Parveen Kumar has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Naresh Kumar @ Kaliya, challenging the judgment dated 09.01.2017 passed by learned Judicial Magistrate Ist Class, Bhiwani, whereby accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant Parveen Kumar filed a complaint against accused Naresh Kumar @ Kaliya under Sections 279, 337, 338 and 427 IPC. The brief averments of the complaint as noted down

in the judgment passed by learned JMIC, Bhiwani, are as under:-

“2. Brief facts of the prosecution case are that complainant is resident of village Bajina, Tehsil Tosham, District Bhiwani and on 20.08.2011 at about 7.30 pm, he was coming back from village Bajina to Bhiwani and when he reached near village Dinod, then the accused was coming from the front side on his motorcycle Hero Honda Splendor with registration No.HR-19D/1533 of Black colour alongwith Ashok son of Shripal and Banu son of Parhlad. Accused was driving the motorcycle in a rash and negligent manner and hit the motorcycle of complainant due to which, complainant got injuries on his left foot and over his eye. Thereafter, the complain was taken to the General Hospital, Bhiwani by the accused persons. The accused in connivance with the doctors, did not let the MLR conducted and took his signatures on some such papers where it was written that the complainant does not want to initiate any proceedings against accused. The mother of complainant met higher authorities of police many times and moved an application but no action was taken by the police. Hence the present complaint.”

On the basis of preliminary evidence, charges were framed against the accused-respondent under Sections 279 and 337 IPC, to which he pleaded not guilty and claimed trial.

The complainant examined himself as CW-1, his mother as CW-2 and CW-3 Bhanu, eye witness to the incident.

At the close of complainant's evidence, the accused was examined under Section 313 Cr.P.C. He was confronted with the evidence of the complainant and he denied all the incriminating evidence against him and pleaded his innocence.

Learned JMIC, Bhiwani, after appreciating the evidence,

acquitted the accused-respondent vide impugned judgment dated 09.01.2017.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

Notice of the application was issued. Learned counsel for the respondent appeared and contested the application.

Lower Court record was also requisitioned.

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

As per complainant's version, the accident took place on 20.08.2011 at about 7.30 p.m. The accused-respondent was summoned under Sections 279 and 337 IPC. Therefore, this complaint is to be filed as per provisions of Section 468 Cr.P.C. within one year and no Court can take cognizance after the lapse of period of limitation but the complaint has been filed on 27.02.2013 i.e. after the period of limitation.

As the complaint was filed after the lapse of period of limitation and no cogent explanation has been given regarding the delay, therefore, the accused-respondent has been rightly acquitted.

In view of the above discussion, I find that the impugned judgment dated 09.01.2017 passed by learned JMIC, Bhiwani, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

February 27, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No