

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

**CRM-A-2806-2019 (O&M)
Date of decision: 31.01.2020**

State of Punjab

...Applicant

Versus

Harpreet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. M. S. Nagra, AAG, Punjab
for the applicant-State.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-38754-2019

Prayer in this application is for condonation of delay of 261 days in filing the application seeking leave to appeal.

For the reasons stated in the application, the same is allowed and the delay of 261 days in filing the said application is hereby condoned.

CRM-A-2806-2019

Prayer in this application is for granting leave to appeal against the judgment dated 03.11.2018, passed by the Chief Judicial Magistrate, Moga, vide which respondent/accused Harpreet Singh was acquitted in Calendra under Section 182 IPC.

Brief facts of the case are that accused Harpreet Singh made a complaint on toll free No. 1800-1800-1000 of Vigilance Bureau, Punjab, Chandigarh against Inderjit Malhotra, Manager of Canara Bank, Chupkiti, District Moga with the allegations that he has demanded bribe of Rs.8,000/- from him for passing loan and during inquiry by the police officials, the

allegations made by the accused in his complaint were found false vide inquiry conducted by Inspector Baj Singh, Vigilance Bureau, Moga. Inspector Baj Singh submitted his inquiry report to his higher officers, who forward the same to Chief Director, Vigilance Bureau, Punjab, Chandigarh and Chief Director, Vigilance Bureau, Punjab, Chandigarh directed them to take action against accused Harpreet Singh for making false complaint to their bureau, upon which, SSP, Vigilance Bureau, Ferozepur made an endorsement, on the basis of which, present Calendra under Section 182 of IPC against accused Harpreet Singh was prepared and presented in the Court.

In order to prove its case, the prosecution examined PW1 ASI Resham Singh, PW2 Jagdeep Singh, PW3 C. Navjit Singh, Office of SSP, Vigilance, Ferozepur, PW4 Retired Inspector Baj Singh, PW5 Inderjit Malhotra and PW6 Hadayat Mohammad (Ex-Sarpanch of village Chupkiti, Tehsil and District Moga).

After closure of the prosecution evidence, statement of accused under Section 313 Cr. P.C. was recorded in which all the incriminating materials appearing in prosecution evidence were put to him. The accused denied all such allegations and claimed his false implication and opted to lead evidence in defence, however, accused did not examine any witness in his defence.

The trial Court, thereafter, on appreciation of evidence, acquitted the accused/respondent by making the following observations:

“.....16. As per the prosecution case, the present accused moved complaint for taking action against complainant Inderjit Malhotra on the allegations that he

was demanding bribe from him. It is not in dispute that no FIR on the basis of said complaint was registered by the police and thus without registration of FIR, the alleged enquiry made by the police whereby the averments made by the present accused were allegedly found to be false one, is of no significance as it has been laid down by our own Hon'ble High Court in **1999 (2) RCR(Criminal) Page 10** that Calandra under Section 182 IPC can not be sustained if any enquiry is conducted by the police without first registering the FIR and similarly the Hon'ble Supreme Court in the case of **"Ramesh Kumar Vs. State of NCI of Delhi and others reported as 2006(2) RCR(Criminal) Page 197** has laid down that genuineness or otherwise the information can only be considered after registration of the case meaning thereby the allegations made by the present accused could be held genuine or false only after registration of the FIR, but nothing of the sort was done by the police. Accordingly, I am of the considered view that the prosecution has not been able to substantiate the accusations against the accused and the charge under Section 182 IPC does not stand established.

17. As an outcome of the above discussion the accused stands acquitted of the charge under Sections 182 of Indian Penal Code. However his surety bond remain extended till 6 months from today under Section 437-A Cr.P.C. Case property be dealt with under rules after expiry of period of appeal or revision, if any. File be consigned to the Judicial Record Room."

Learned counsel for the applicant-State has argued that from the statement of PW-5 Inderjit Malhotra, it has come on record that on 13.03.2015, he was posted as Manager, Canara Bank, Village Sandhuan

Wala, Branch Chupkiti, District Moga when one Ajit Singh has applied for a domestic loan, which was sanctioned on the installment of Rs. 1,000/- per month but Ajit Singh failed to make the repayment. Thereafter, respondent/accused Harpreet Singh approached him for a loan of Rs. 2 Lakh for sending his sister abroad, upon which, he was informed that he should clear the loan dues first as in one house, the second loan cannot be disbursed without making repayment of earlier loan. Thereafter, Harpreet Singh deposited an amount of Rs. 18,000/- in the loan account of Ajit Singh. Thereafter, Harpreet Singh came to the house of PW-5 late in the night for sanctioning of loan and started shouting, upon which, PW-5 informed the Sarpanch of the village. Thereafter, PW-5 received a summon from Vigilance Bureau that he has demanded Rs. 8,000/- as bribe from Harpreet Singh. Later on, on inquiry, the complaint given by Harpreet Singh was found to be false and thus, offence under Section 182 IPC is made out.

After hearing learned counsel for the applicant-State, I do not find any infirmity in the findings recorded by the trial Court.

It has come on record that respondent/accused allegedly moved a complaint with the allegations that PW-5 Inderjit Malhotra has demanded bribe from him, however, no FIR was registered on the basis of the said complaint and on an inquiry, conducted by the police, the complaint was found to be false.

The trial Court has relied upon the judgment of Hon'ble Supreme Court rendered in Ramesh Kumar vs. State of NCT of Delhi and others, 2006 (2) RCR (Criminal) 197, wherein it has been held that it is only after the registration of a case, the allegations made by the accused can be

held to be genuine or false and, therefore, no offence under Section 182 IPC is made out.

Therefore, finding no infirmity in the impugned judgment of acquittal, this application seeking leave to appeal against the impugned judgment of acquittal is hereby dismissed.

31.01.2020
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No