

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

CRM-A-44 of 2022

Date of decision: 12th July, 2023

Ajmer Singh

...Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Anshul Sharma, Advocate for the applicant.
Mr. H. S. Sitta, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This application under Section 378(4) Cr.P.C. is filed for grant of leave to appeal against dismissal of the complaint.
2. The complainant/applicant is a retired Manager from Food Corporation of India (for short, 'the FCI'). He filed a complaint alleging that the accused had ill-will against him and spoiled his Annual Confidential Report (for short, 'the ACR'). Further that on 2.1.2012, when the complainant approached the accused for reimbursement of the medical bills, he turned him out of the office and in the presence of other persons used filthy language.
3. The complaint was dismissed vide judgment dated 22.9.2021. It was considered that aggrieved of ACR, the complainant filed application to the higher authority. Further that the ACR was conveyed in a closed envelope and the pre-requisites of Section 500 IPC were not fulfilled. The fact of filing complaint by the complainant with regard to

the incident that took place on 2.1.2012 before the Incharge i.e. Rani Ka Bagh was withheld. Further the factum of complaint filed by District Office of FCI against the complainant and that the enquiry report dated 15.2.2012 was against him was not disclosed in the complaint. The complaints and the enquiry report were proved by defence by exhibiting documents Ex. D-8 to Ex. D-14. The fact of filing of an application by the District Office of FCI against the complainant on 2.1.2012 as also the enquiry report dated 15.2.2012 was admitted by the complainant in cross-examination. The court considered that in the initial complaint filed there were no allegations of use of the specific expression "*throw this begger out of office*". The initial complaint did not mention the fact that CW2-Jatinder Singh and CW4-Harjinder Singh accompanied the complainant while he visited the office of the accused. In view of the material variations between the initial complaint and the complaint filed later the allegations were held to be after thought and the presence of CW2 and CW4 at the time of the alleged incident was found to be doubtful. The complainant in the preliminary evidence named only Jatinder Singh as the person accompanying him on the date of incident but subsequently the version was improved and name of Harjinder Singh was added. The complainant had not placed on record the medical bills for the clearance of which he had visited the office of the accused. He further admitted that medical reimbursement bills were to be cleared by the Accounts Section and the accused had no authority to deal with the bills. After appreciating the evidence adduced, the complaint was dismissed.

4. Learned counsel for the applicant submits that testimonies of

Jatinder Singh and Harjinder Singh were not properly considered. The allegations made by the complainant were not taken on face value.

5. Heard learned counsel for the applicant and perused the record.
6. The scope for interference in appeal against acquittal is well settled. A Division Bench of this Court in **State of Punjab v. Hansa Singh, 2001 (1) RCR (Criminal) 775**, while dealing with an appeal against acquittal held:

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in Ashok Kumar v. State of Rajasthan, 1991(1) SCC 166, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.”

7. Withholding of the material facts by the complainant remained un-explained even before this court. As per enquiry report dated 15.2.20212, the allegation made in the complaint filed by the FCI that the complainant while visiting the office on 2.1.2012 misbehaved with the officials were found to be true. The material variation in contents of two complaints is undisputed as also the improvement in version after leading the evidence at the preliminary stage.

8. No case is made out for interference in findings recorded that the presence of Jatinder Singh and Harjinder Singh at the time of incident was doubtful. It cannot be lost sight of that the complainant failed to withstand the cross-examination and admitted that the accused had no

official capacity to deal with reimbursement of the medical bills.

9. The complainant failed to substantiate the allegations, there is no factual or legal error, much less perversity, for interference by this court.
10. The application for grant of leave to appeal is dismissed.

12th July, 2023

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[AVNEESH JHINGAN]
JUDGE

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No