

CRM-M-40088-2016

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40088-2016

Date of decision : November 16, 2023

Paramjeet Kaur

....Petitioner

Versus

Bhupinder Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. PKS Phoolka, Advocate, for the petitioner

KULDEEP TIWARI,J. (ORAL)

1. Through the instant petition filed under Section 482 Cr.P.C., the challenge is thrown to order dated 12.8.2016 (Annexure P/8) passed by the learned revisional court and the order dated 28.11.2013 (Annexure P/6) passed by the learned Judicial Magistrate Ist Class, whereby, the complaint preferred by the petitioner was dismissed.

2. At the very outset, this Court posed a query to the learned counsel for the petitioner "whether the accused had been summoned in the complaint preferred by the petitioner," he answered the same in affirmative. It is not under dispute that the learned trial court tried the complaint as a warrant case and all the accused/respondents were discharged after facing the trial, therefore, the discharge tantamounts to acquittal. Considering the fact that the revision preferred by the petitioner was a misconceived motion and in fact, the only remedy against the order of discharge

passed by the learned Judicial Magistrate Ist Class, Phul would be by filing the appeal along with an application for leave to appeal provided under Section 378(4) Cr.P.C. Instead of availing the statutory remedy of appeal, the instant petition has been filed invoking extra ordinary jurisdiction of this Court.

3. Learned counsel for the petitioner has submitted that since the present petition is pending for the last seven years and no objection has been raised by any of the parties, therefore, the instant petition be converted into an appeal. This Court is not inclined to accept this prayer for converting the present petition into appeal as the petitioner is required to file leave to appeal under Section 378(4) Cr.P.C. by moving an appropriate application. Therefore, request is declined.

4. Since the petitioner has alternative statutory remedy as explained above, the instant petition is not maintainable. Consequently, the instant petition is dismissed being not maintainable. However, considering the fact that the petitioner has approached the wrong forum and it was a bonafide mistake, the liberty is granted to the petitioner to challenge the impugned order before the appropriate forum under the appropriate provisions of law.

November 16, 2023

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(KULDEEP TIWARI)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>