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

CRM-A-1802-MA-2015 (O&M)

Date of Decision:22.04.2024

Paramjit Singh

...Appellant

Vs.

Saudagar Singh and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Robin Attri, Advocate for
Mr. T.P.S Bhatti, Advocate
for the applicant-appellant.

Mr. Divyansh Vats, Advocate for
Mr. H.S Batth, Advocate
for the respondents.

Ms. Monika Thakur, Advocate as
Amicus Curiae for the applicant-appellant.

N.S.Shekhawat J.

CRM-36332-2015

1. The applicant/appellant has moved the instant application under Section 5 of Limitation Act for condonation of delay of 34 days in filing the present appeal.

2. For the reasons mentioned in the application, the minimal delay of 34 days in filing the present appeal is condoned.

Main case

1. The applicant has filed the present application under Section 378 (4) Cr. P.C with a prayer to grant special leave to appeal against the impugned judgment dated 10.07.2015, passed by the Court of Sub-Divisional Judicial Magistrate, Payal, whereby the respondents No.1 and 2 were ordered to be

acquitted of the charges framed against them.

2. As per the case of the prosecution, the applicant/complainant had filed a criminal complaint under Sections 499,500,341,506,34 of IPC against the respondents. He alleged that he was running Commission Agent shops in Grain Markets, khanna and Payal under the name and style of M/s Gurdev Singh and Company and M/s Narinder Singh and Company. He was very reputed person in the area. At about 3/4 PM on 28.07.2003, all the accused hatched a criminal conspiracy with each other and after forming an unlawful assembly, with the common object to defame the applicant/complainant came there in three trucks with 150 unknown persons and the complainant could recognise them. They organised a *dharna* in front of the house of the complainant and forcibly restrained him, his wife and his kids at home. They also threatened to kill the applicant/complainant and his son. Nachhattar Singh, Swaran Singh and Jasbir Singh had witnessed the *dharna* and the offence committed by the accused. On 04.08.2003, the accused No.1 had written a letter against the applicant/complainant to Sarpanch, Gram Panchayat Village Majri making certain derogatory and defamatory insinuations against the applicant, by alleging that the applicant had refused to make the payments to the farmers and he always resiled from his promises. Even another *dharna* was organised on 28.07.2003, in front of the house of the applicant/complainant and the accused stated that the said Union will be forced to take action against the applicant/complainant. In this manner, by written words and action, accused/respondents No.1 to 5 had defamed the applicant.

3. After closure of the preliminary evidence, the accused was summoned and the accused No.1 demanded a sum of Rs.2 lacs from the

applicant/complainant and stated that, in case the amount was not paid, he will get his postures affixed in Chandigarh. Apart from that, the applicant/complainant was wrongly branded as dishonest person by the respondents, whereas the petitioner had not cause any loss to the respondent.

4. Learned counsel for the applicant submits that the impugned judgment passed by the Court of Sub-Divisional Judicial Magistrate, Payal was illegal and unsustainable. Learned counsel further submitted that the applicant had levelled specific allegations against the respondents and had also mentioned the role played by each of the accused during the commission of the crime. However, the SDJM, had illegally and wrongly acquitted the respondents of the charges framed against them. He further contends that the Trial Court had completely overlooked the evidence in the shape of CW-1 to CW-4, who had supported the version of the applicant/complainant. He further contends that at this stage, the Court was bound to see as to whether the offence was made out against the accused or not.

5. On the other hand learned counsel for the respondent submits that the impugned order has been passed after due appreciation of evidence. Respondents No.1 and 2 were rightly acquitted by the Court.

6. In the present case, the complainant had alleged that from the language of the poster of Bhartiya Kisan Union (Ekta), Doraha Ex.C-17, the respondent had defamed the applicant by pasting his posters in the public places. For making out a case for defamation, it was obligatory on the part of the applicant to show that Ex.C-17, was pasted at place mentioned by the present applicant. However, the Trial Court has correctly observed that there was no glue nor any mixture of flour, from which it could be shown that the

poster was pasted on the wall. Even the complainant had clearly stated that he had removed the poster from Bus Stand Majri, but from a bare perusal of Ex. C-17, the whole case of the applicant/complainant was demolished. It was apparent that Ex.C-17, was never pasted anywhere and the applicant had not removed the poster Ex.C-17.

7. Once it has been found that Ex.C-17 i.e the poster, which was the main basis of the case was not removed from the wall, the applicant should have led some evidence to show the source of procurement of Ex.C-17. Even a further blow has been given to the case of the applicant by CW-3, Sharandeep Singh, who stated that he had not removed the poster, which was pasted on the wall by the accused and had not even stopped him from pasting the poster at Bus Stand Majri.

8. Still further, the applicant/complainant had only examined CW-3, Sharandeep Singh as an eye-witness, however, it was admitted that he was his real cousin. Even, the law is well settled that the testimony of a related witness has to be scrutinised cautiously by the Courts. CW-3 Sharandeep Singh was stated to be an eye-witness, but it is unbelievable that he had allowed the complainant to paste the posters at Bus Stand Majri. Even CW-2, Jagtar Singh, Sarpanch of the Village Majri also stated that the accused along with 4/5 unknown persons had appeared before him, but he could not corroborate the version of the complainant with regard to publication of derogatory remarks by the respondents. Even the Trial Court has recorded detailed findings, while acquitting the respondents of the charge. I have gone through the findings recorded by the Trial Court and the impugned judgment does not suffer from the vices and illegality or perversity. Thus, the impugned judgment dated

10.07.2015, passed by the Court of Sub-Divisonal Judicial Magistrate, Payal is
ordred to be upheld and the application filed by the applicant/appellant is
ordered to be dismissed.

12. Pending application(s), if any,are also disposed off.
13. Case property, if any, be dealt with, and, destroyed after the expiry
of period of limitation for filing the appeal, in accordance with law.

22.04.2024

hitesh

(N.S.SHEKHAWAT)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No