



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-A-2557-MA-2017 (O&M)
Decided on : 12.09.2025

Harpreet Kaur . . . Applicant(s)

Versus

Gobinder Singh Grewal . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Munish Bahl, Advocate,
Mr. Vikshal Agarwal, Advocate and
Mr. Hritik Sharma, Advocate, for the applicant(s).

SANJAY VASHISTH, J. (Oral)

1. By filing an application under Section 378(4) Cr.P.C. seeking leave to appeal, applicant, Maura Singh, has challenged the order dated 05.07.2017, whereby the criminal complaint filed by him (Complaint NO.222/2024, CNR: CHCH03-003579-2015, DOI : 04.09.2014) was dismissed at the pre-summoning stage by the learned Judicial Magistrate First Class, Chandigarh.

2. Complaint was filed against the respondent-accused for punishing him under Sections 494 & 420 of IPC.

After complainant led preliminary evidence, learned Judicial Magistrate First Class, Chandigarh, found that the case was not fit for summoning the accused. Complainant failed to prove the allegations of bigamy and cheating against the respondent-accused, as there were no evidence on file to prove the said allegations. Ultimately, Court concluded that there is no *prima facie* material available on the file for summoning the deceased for the offence of cheating and bigamy.



Consequently, complaint was dismissed at pre-summoning stage, without even issuing summons to the respondent/accused, with the following observation:

“4. *The version of the complainant is that she was married with Gobinder Singh, accused in the present case in the year 1992. Thereafter, the accused Gobinder Singh has thrown out her from her matrimonial house in the year 2002 without any reason and also deprive her from the custody of her child. Further averred that divorce petition was also filed by her husband which was dismissed by the learned ADJ Court. The appeal against the said order in the Hon'ble High Court was also filed and the appeal in the Hon'ble High Court is still pending. Further averred that her husband Gobinder Singh has remarried with lady namely Shash @ Shahwati during the pendency of appeal in Hon'ble High Court. Complainant has prima facie to show that her husband Gobinder Singh has remarried with another lady namely Shash @ Shahwati during the subsistence of marriage with her and thereby he has committed an offence of bigamy and cheating with her. But except the bare statement of the complainant, there is no evidence on file to prove that her husband had remarried with lady namely Shash @ Shahwati. Complainant also failed to prove how he committed cheating with her. There is no prima facie material available on the file for summoning the accused for the offence of cheating and bigamy.*

5. *In view of the above detailed discussion, the complaint of the complainant under Section 494 and 420 of IPC against the accused Gobinder Singh Grewal is hereby dismissed. File be consigned to the record room after due compliance.”*



3. Under Chapter XXIX, appeals are instituted by the affected party against judgments of conviction and acquittal.

An appeal against acquittal has been filed under Section 378 Cr.P.C., which reads as follows:

“378. Appeal in case of acquittal.—(1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-sections (3) and (5)-

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision.]

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, 1 [the Central Government may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal—

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision].

(3) [No appeal to the High Court] under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.



(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2)."

4. A bare reading of Sub-Section (3) negates the maintainability of an appeal in the High Court unless leave is first granted by the High Court.

5. Sub-Section (4) provides that the High Court may grant special leave to appeal against an order of acquittal if the complainant in a complaint case challenges such order.

6. In the present case, there is no such order from where it can be concluded that accused was ever summoned, charged, and subsequently acquitted after facing trial proceedings and appreciation of evidence. In fact, accused (Respondent herein) was never summoned by the Court to face trial. Therefore, order passed at pre-summoning stage, where the Court was not even satisfied to summon the accused, cannot be challenged in the form of an appeal. Consequently, question of granting leave by the High Court does not arise.



If complainant was aggrieved and perceived that the Court had committed any error, proper remedy would have been to invoke the revisional jurisdiction under Chapter XXX of the Cr.P.C. to examine whether the complaint was supported by sufficient evidence to establish a *prima facie* case against the proposed accused/Respondent.

7. In view of the foregoing discussion and observations, this Court is of the opinion that application CRM-A-2557-MA-2017, along with the memo and grounds of appeal, is not maintainable before this Court. Accordingly, same is hereby **dismissed**.

(SANJAY VASHISTH)
JUDGE

September 12, 2025

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No