

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 2706 of 2015

Date of Decision: 23.04.2015

Manjeet Singh alias Manjit Singh and another

.....Petitioners

Vs.

Rajdeep Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amarbir Singh Salar, Advocate,
for the petitioners.

SABINA, J.

Petitioners have filed this petition challenging the order dated 07.03.2015, whereby application moved by the petitioner under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC') for rejection of the plaint on the ground of territorial jurisdiction, was dismissed.

I have heard learned counsel for the petitioners and have gone through the record, available on the file carefully.

Respondent No. 1 has filed suit for damages against the petitioners and others for initiating malicious prosecution against her. During the pendency of the suit, petitioners moved an application under Order 7 Rule 11, CPC.

The trial Court while dismissing the application has held as under:-

“I have gone through the contents of the

*plaint and documents attached with the plaint. In nut shell, the present case for recovery by way of damages has been initiated by the plaintiff for malicious prosecution against the defendants inter-alia on the ground that defendants have levelled false allegations of theft of their golden ornaments by the plaintiff and have also passed defamatory remarks during investigation conducted before the SSP Patiala. She has also levelled the allegations of character assassination at the hands of defendants. Plaintiff had to apply for anticipatory bail at Patiala. The summons have been issued to join the proceedings from the territorial jurisdiction of Patiala. The investigation relating to the allegations of theft have also been conducted at Patiala. Sections 19 and 20, CPC become relevant in this case. Section 19 Code provides that “where a suit is for compensation for wrong done to the person or to moveable property, suit may be instituted within the local limits of jurisdiction of those courts where the wrong was done or where the defendants resides”. Similarly Section 20 provides that “the suit may be instituted at place where either cause of action arises or defendant resides”. There is no provision in the CPC to allow plaintiff to institute suit at the place of her residence. It was held in **Khandchand vs. Harumal, (1964) 66 Bombay LR 829** **“In an action for malicious prosecution, the within whose jurisdiction plaintiff was served with the summons in the criminal case institute against him has jurisdiction to entertain the suit. The reasons given is that through such service is not part of the cause of action for such a suit, the essence of malicious prosecution is the malicious abuse of the process of court i.e. service of the summons. Hence, the court within whose jurisdiction such abuse has taken place***

can entertain such suit under this section”.

*From the documents attached with the plaint, relating to the investigation conducted at Patiala, it is clear that the address of the plaintiff has been given as Rajdeep Kaur, daughter of Manmohan Singh, resident of village Rohira, Police Station Ahmedgarh, District Sangrur. This implies that the summons to join the investigation has been received by the plaintiff in the territorial jurisdiction of this Court, therefore, in view of law laid down in case **Khandchand vs. Harumal (supra)** the cause of action arises at village Rohira which is within the territorial jurisdiction of this Court. Consequently, the application under Order 7 Rule 11, CPC, moved by the defendants stands dismissed.”*

The reasons given by the trial Court while dismissing the application are sound reasons. It has been noticed by the trial Court that in the criminal proceedings, the address of the plaintiff was given as resident of village Rohira, Police Station Ahmengarh, District Sangrur. Apparently plaintiff had received summons to join the investigation at the said address and the Court of Malerkotla, has the jurisdiction to decide the same. The trial Court has placed reliance on decision of Bombay High Court. Learned counsel for the petitioners has failed to show any judgment to the contrary.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

April 23, 2015
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