

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6039 of 2013

Date of Decision.20.01.2015

Jasbir Singh

.....Petitioner

Versus

The State of Punjab and others

.....Respondents

Present: Mr. Kuldip Sanwal, dvocate
for the petitioner.

Mr. Ranbir Singh Pathania, DAG, Punjab.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The petitioner's claim for compensation is on the ground that a false case had been registered under Sections 352, 354, 376, 511, 376 IPC for alleged molestation of his maid servant by the police, motivated as it was, for, a case had been registered by the father of the petitioner against his landlord. The petitioner's plea is that on account of the false case which was registered, he had been kept in custody for about 86 days and he lost the prospect of going to Congo as a member of peace keeping mission. The petitioner would contend that the criminal case ultimately after trial ended in acquittal. This, according to the petitioner, would justify him to claim compensation for damages.

2. The police has its own version about how the petitioner himself was the aggressor in having assaulted the police which has resulted in registration of yet another complaint in FIR No.175 dated

1.10.2011 for offences under Sections 323/353/394/186 IPC and the criminal case is said to be pending.

3. The counsel also refer to two decisions of the Supreme Court in Smt. Nilabeti Behera alias Lalita Behera Vs. State of Orissa and others 1993 AIR (SC) 1960 and Dr. Mehmood Nayyar Azam Vs. State of Chattisgarh and others 2012(3) RCR (Criminal) 925 where in case of custodial deaths, the Court awarded compensation and it found that the remedy under Article 32 before the Supreme Court or under Article 226 before the High Court was perfectly justified. I will not find any of these decisions which the counsel refers to me as justifying a person to apply for damages in a writ jurisdiction where an act of acquittal in a criminal case is stated to afford to him a ground for claiming compensation. An acquittal in criminal court only means that the prosecution could not sustain its case before the Criminal Court for several reasons which would include even a reason that the benefit of doubt was to be given to the accused. A claim for damages for acquittal in criminal case is not a sine qua non and what is most important as genre of a civil wrong is the prosecution of a criminal case motivated by malice. Malice is a mental component that will have to be established by appropriate evidence and cannot be a matter of inference by the only fact that the case ended in acquittal. It is axiomatic that a suit for malicious prosecution cannot succeed by the only fact that the criminal case ended in acquittal. I do not think that it will be exigent for the Court exercising Article 226 jurisdiction without recourse to oral evidence of parties to award a compensation, without proper appraisal of the circumstances under which the criminal case was filed and whether there had been any

motivation of malice. The petitioner will be better advised to resort to an alternative remedy. The action for damages for malicious prosecution will have to be filed within a year from the date when an order of acquittal was passed and when the judgment had become final. If there would be any delay, any time taken during the pendency of the proceedings could be considered for exclusion, if an appropriate application is filed explaining the delay. Beyond this, no other exclusion is possible. The petitioner is at liberty to avail of such other remedy as it is possible by law.

4. The writ petition is disposed of with above observations.

(K. KANNAN)
JUDGE

January 20, 2015
Pankaj*