

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

RSA No.4382 of 2012
Date of decision : 29.10.2015

Sukhpreet Kaur alias Pappu

...Appellant

Versus

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Kanisth Ganeriwala, Advocate for the appellant.

Mr. Piyush Bansal, DAG, Punjab.

Mr. Achin Gupta, Advocate for respondent Nos.2 to 4.

AMIT RAWAL, J. (Oral)

The appellants-plaintiff is in Regular Second Appeal against the concurrent findings of fact, whereby suit claiming damages to the tune of Rs.4 lacs for malicious prosecution, has been dismissed.

Mr. Kanisth Ganeriwala, learned counsel appearing on behalf of appellant-plaintiff submits, that in order to prove the damages, the appellant-plaintiff has proved on record two documents i.e. sale deed dated 14.06.2004 Ex.P7 and enquiry report conducted by D.S.P. Gurjit Singh Ex.P-8, wherein statement of the defendants was recorded and held

responsible in lodging false and frivolous FIR against the plaintiff. The aforementioned documents have been not taken into consideration and the Court below by taking the benefit of Section 69 of NDPS Act, has dismissed the suit. He further submits that aforementioned documentary evidence was sufficient to show that appellant-plaintiff was falsely implicated in the commission of offence falling under the provision of NDPS Act.

Mr. Achin Gupta, learned counsel appearing on behalf of respondents No.2 to 4 submits, that enquiry report and the sale deed could not be the basis of forming an opinion by the trial Court in determining the damages. The plaintiff in order to claim the damages had to prove the same by leading direct and cogent evidence and has to stand on his own legs. Once having fails to do so, therefore, the suit had rightly been dismissed.

I have heard learned counsel for parties and appraised the paper book.

The Sale deed dated 14.06.2004 though has been exhibited but it has not been proved whether it was distressed sale as plaintiff was in need of money to defend the false criminal proceedings. The market value of the property available as existing in the month of June 2004, has not been proved on record for the purpose of comparison. Enquiry report conducted by DSP, Gurjit Singh cannot be the basis for claiming damages, much less, acquittal. In the suit for damages, the plaintiff has to lead direct and cogent evidence to claim the damages. Except the bald and self serving statement, no other witness has been examined to show that one Kamaljit Singh who was nursing rancor against the plaintiffs got involved him in the aforementioned criminal prosecution. No independent witness has been

examined.

The Courts below after noticing the aforementioned fact and as well as by relying upon provision of Section 69 of NDPS Act, granted immunity to the Officers who have performed their role in discharge of their duties & found that there is no substance in the suit and accordingly dismissed.

I do not intend to differ with the findings, much less, such findings cannot be said to have been illegal and perverse, much less, no substantial question of law arises.

Accordingly, the appeal is dismissed.

29.10.2015

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**(AMIT RAWAL)
JUDGE**