

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

**Regular Second Appeal No.4395 of 2012 (O&M)  
Date of Decision: December 03, 2015.**

Karnail Kaur

**.....APPELLANT.**

**VERSUS**

Mohinder Kaur and another

**.....RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Vijay Lath, Advocate  
for the appellant.

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**SURINDER GUPTA, J.**

Heard.

2. This is Regular Second Appeal against the concurrent judgments of the Courts below whereby the suit filed by plaintiff-appellant seeking recovery of ₹50,000/- on account of her malicious prosecution, was dismissed.

3. Plaintiff was Sarpanch of Village Haripur/Road Majra, which falls in Tehsil and District Ropar (Rupnagar). Defendants were also Panches of the Panchayat of said village. As per the plaintiff, a false complaint was made by defendants to District Development and Panchayat Officer (for short-DDPO) Ropar, levelling the allegations of misuse of funds of the Panchayat, on which an enquiry was conducted and no embezzlement of Government funds was found. The act and conduct of the defendants had

defamed the plaintiff in the eyes of general public.

4. Defendants in their written statement admitted that they moved complaint to the DDPO, who never visited the spot or conducted any enquiry and gave the report, dismissing the complaint. The defendants also moved complaint to the Vigilance Department, which had been sent for enquiry to Zila Parishad, Ropar and was still pending. The other averments of plaintiff were contested, controverted and denied.

5. Learned counsel for the appellant has argued that both the Courts below have not taken care of the fact that the plaintiff, being Sarpanch of the Village, was a public servant and if the false allegations of misutilisation of the government funds are levelled against a public servant, it will not only damage his reputation but also cause aspersions on his integrity and create hindrance in the proper discharge of his duties. The complaint filed by defendants was admittedly found to be false by the DDPO, which supports the contention of the plaintiff that the same was false and filed with ill intention to defame and damage his reputation.

6. Both the Courts below have declined the relief as claimed by plaintiff on two grounds; firstly, the complaint made to DDPO and the enquiry report of DDPO were not duly proved. Secondly, from the allegations in the complaint produced on file as Ex.DA, it could not be inferred that the same was false or malicious. First Appellate Court, while dismissing the appeal of plaintiff-appellant, has observed in para 8 as follows:-

“8. *After giving my thoughtful consideration to the submissions made by counsel for both the parties and*

*going through the entire evidence on record, I find that the trial Court has rightly dismissed the suit of the plaintiff. The application Ex.DA was moved by the defendants against the plaintiff before the DDPO, Ropar alleging therein that the plaintiff has mis-used the Government funds, since she has used the sub-standard material for the construction in the village. Firstly, the enquiry report allegedly done by the DDPO, Ropar has not been exhibited on the record. The same is mark B and thus, the same cannot be read in evidence. Above all, the DDPO, Ropar never visited the village of the parties, where the construction was undertaken by the plaintiff and he has never got inspected the material used for the said construction through some expert from the PWD department or some other expert, to come to the conclusion as to whether the material got used by the plaintiff for the construction in the village, is of upto the mark quality or is of sub-standard quality. So, it can be said that no enquiry has been done by the DDPO, Ropar with respect to the allegations levelled by the defendants against the plaintiff. Moreover, admittedly, the defendants have moved an application before the Vigilance Department, Punjab against the plaintiff for holding the enquiry for the same purpose against her and the said enquiry has been marked to the Zila Parishad, Ropar. The enquiry pertaining to the same is still pending and no report has been submitted so far. So, the present case is pre-mature.”*

7. In the complaint made by defendants/respondents to the concerned public authority, the allegations of misutilization of the Government funds were levelled. It was alleged by the members panchayat

that the quality of the construction of road and street was very poor and these were in bad shape after six months of its construction. They also alleged that they were not being given any information about the receipt of Government funds or were called in the meetings. The report of DDPO is totally silent regarding the above allegations. He simply called the plaintiff and the complainant and after hearing them, decided the matter. The way DDPO had decided the complaint, does not suggest that he had properly looked into the allegations levelled in the complaint. He had not even tried to look into the veracity of the allegations regarding the quality of construction work of the road and street; non-calling of the Panchayat members, while passing the resolution and not giving them any information about the receipt of funds.

8. The onus was heavily on the plaintiff-appellant to prove that the allegations were false and she was defamed before the general public. There is nothing on record that any member of public was associated in the enquiry by the DDPO, Ropar, while giving his report dated 03.07.2007. The defendants were also panches and if they have expressed their grievance and made complaint before the authorities concerned, the same, in the absence of any evidence of mala fide proved on record, cannot be termed as defamatory.

9. In view of the above discussion, I find no legal or factual infirmity in the judgments of the Courts below, calling for any interference.

10. No substantial question of law requiring determination arises in this appeal, which has no merits.

11. Dismissed.

( SURINDER GUPTA )  
JUDGE

**December 03, 2015.**

*Sachin M.*