

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

RSA No.5688 of 2015 (O&M)

Date of Decision: November 04, 2015

Chanchla Devi and others

.... Appellants

vs.

Pritam Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Naveen Batra, Advocate for the appellants.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

CM-13911-C-2015

There is delay of 62 days in refiling the present appeal.

For the reasons mentioned in the application supported by an affidavit, delay of 62 days in refiling the present appeal is condoned, subject to all just exception.

Application stands dispose of.

RSA-5688-2015

Impugned in the present regular second appeal is the judgment and decree dated 21.03.2015 passed by learned Addl. District Judge (Adhoc), Fast Track Court, Hoshiarpur, affirming the judgment and decree dated 14.12.2010 passed by learned Addl. Civil Judge (Sr. Divn.), Hoshiarpur, vide which in a suit filed for

compensation on account of malicious prosecution, defendant Nos.1 to 6 were ordered to pay ₹5,00,000/- as compensation to the plaintiff along with interest @ 6% per annum from the date of filing of the suit till actual realization. The amount was to be paid by defendant Nos.1 to 6 in equal shares. The costs of the suit were also allowed.

The brief facts, which are required to be noticed for the purpose of the disposal of the appeal are that an FIR No.117 under Sections 302 read with Section 34 IPC Police Station Hariana, District Gurdaspur was lodged against Pritam Singh, plaintiff and some others by defendant No.1 and his father Devi Singh regarding the murder of Parkash Singh. The said FIR was investigated by the police and it was found that Pal Singh, Prem Singh and Pritam Singh were innocent and one Avtar Singh was challaned. However, Chanchala Devi, defendant No.2 had filed a criminal complaint under Section 302 read with Section 34 IPC against the present plaintiff and others, who were exonerated by the police after investigation. The said criminal complaint was consolidated with the said police challan. Other defendants appeared as witnesses and made statements against the plaintiff. Vide judgment dated 11.08.2001 passed by learned Addl. Sessions Judge, Hoshiarpur, all the accused including the plaintiff were acquitted of the charges framed against them.

The appeal against the said judgment was dismissed by the Hon'ble High Court on 23.05.2002. The plaintiff claimed that the plaintiff along with his family was to immigrate to Canada on account

of VISA sponsored by his daughter, who is already settled in Canada. On account of criminal case, his case of immigration was rejected by the Canadian Embassy. He further claimed that he had suffered loss of income from agriculture land and also spent money in the criminal litigation.

Defendant nos.1, 2 and 4 filed their joint written statement whereas defendant Nos.5 and 7 filed their separate written statement individually. Filing of the criminal case was not denied. However, the immigration was denied. It was stated that the civil suit titled "Chanchala Devi vs Avtar Singh and others" for damages is pending against the plaintiff for causing murder of Parkash Singh. Therefore, the suit is liable to be stayed under Section 10 CPC.

The lower court after considering the facts and circumstances, repelled the contention of the defendants-appellants that the compromise was effected and plaintiff was to withdraw the suit. However, it was noticed that the present plaintiff was never agreed to withdraw the suit on the basis of compromise dated 30.01.2008 (Ex.D2). Therefore, the compensation of ₹5,00,000/- was awarded.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

Before this Court, learned counsel for the appellants has argued that on account of compromise (Ex.D2), the witnesses have resiled from their statements. Avtar Singh-DW7 and Balram Singh-PW4 had admitted regarding the compromise.

I am of the view that the compromise was rightly discarded by the lower court. The criminal proceedings terminated in the year 2001 much before the compromise (Ex.D2) in the year 2008. Even the appeal before the High Court was dismissed in the year 2002. Therefore, any compromise in the year 2008 will have no bearing on the merits of the present case.

Moreover, Pritam Singh had never signed the said compromise to withdraw the present suit. It was proved that on account of malicious prosecution, Pritam Singh and his family was denied immigration to Canada and they also suffered financial losses in spending money on the criminal litigation. The findings of the facts have been recorded. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

November 04, 2015
sarita

(KULDIP SINGH)
JUDGE