

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

R.S.A.No.3153 of 2011 (O&M)

Date of Decision: November 15, 2016

Tirath Singh & another

...Appellants

Versus

Malkiat Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

**Present: Mr.Amandeep Singh Manaise, Advocate,
for the appellants.**

**Mr.G.S.Rawat, Advocate,
for respondent No.3.**

AMIT RAWAL, J. (Oral)

Appellant-plaintiffs are aggrieved of the judgment and decree rendered by the Lower Appellate Court, whereby the judgment and decree of the trial Court decreeing the suit by awarding compensation to the tune of ₹1,50,000/- along with interest on account of malicious prosecution, has been set-aside.

Mr.A.S.Manaise, learned counsel for the appellant-plaintiffs submits that it is a case of private criminal complaint as a counter blast to the case titled as State Versus Gurdeep Singh and others, under Section 302 IPC. The Police, after investigation, found that no case for registration of the FIR was made out. However, the criminal Court acquitted the appellants from the alleged charges of Section 307/34 IPC. In order to prove the damages, one of the plaintiffs has stepped into the witness box and also tendered into evidence the judgment and the statement of Head Constable,

i.e., the witness in the criminal case. The trial Court, though on the basis of the oral and documentary evidence, decreed the suit, but the Lower Appellate Court has abdicated and misconstrued the oral and documentary evidence and reversed the findings and, thus, prays for setting-aside the judgment and decree of the Lower Appellate Court.

Mr.G.S.Rawat, learned counsel for respondent No.3 submits that the findings rendered by the Lower Appellate Court are in consonance with the settled law. The plaintiffs have miserably failed to discharge the onus and establish the entitlement of damages.

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

The law, on the basis of the which the compensation has been awarded on account of malicious prosecution, is no longer *res integra*. The Hon'ble Supreme in **West Bengal State Electricity Board Versus Dilip Kumar Ray, 2007 AIR (SC) 976** and various other judgments has held that mere tendering of the judgment of the criminal Court acquitting the accused/ plaintiffs would not be sufficient in order to claim the compensation on account of malicious prosecution, in essence, the plaintiffs have to lead direct, independent and cogent evidence as to how and in what manner they have suffered the loss which is being sought in terms of money. Having failed to do so, as noticed above, I am of the view that the Lower Appellate Court, being the last Court of fact and law, after examining the position of law and evidence, rightly dismissed the suit. The appellant-plaintiffs have failed to discharge the onus.

For the foregoing reasons, I do not intend to differ with the findings rendered by the Lower Appellate Court, which are based upon

appreciation of oral and documentary evidence, much less no substantial question of law arises for determination. No ground for interference is made out.

Appeal stands dismissed.

November 15, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No