

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. RSA No. 3831 of 2012 (O&M)
Date of Decision : 25.07.2016

Din Dayal SharmaAppellant

Versus

Bhag Singh and othersRespondents

2. RSA No. 3848 of 2012 (O&M)

Din Dayal SharmaAppellant

Versus

State of Punjab and othersRespondents

3. RSA No. 3997 of 2012 (O&M)

Din Dayal SharmaAppellant

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arihant Jain, Advocate
for the appellant.

None for respondents.

Surinder Gupta, J.

This judgment will dispose of above captioned three appeals which arise from one judgment and decree of Ist Appellate Court, Patiala.

2. Learned counsel for the appellant has argued that suit filed by plaintiff seeking recovery of damages was decreed by learned Additional Civil Judge (Senior Division), Patiala vide judgment dated 18.08.2006 and damages to the tune of ₹1 lac with interest were allowed.

Against judgment and decree passed by learned Additional Civil Judge

(Senior Division), Patiala, plaintiff-appellant as well as defendants filed separate appeals, which were not decided on merit. Learned Ist Appellate Court in view of pendency of revision petition (CRM-M-8846 of 2004), against order of discharge of plaintiff, dismissed the appeals with observation that suit was pre-mature and plaintiff-appellant shall have right to file suit for damages after case bearing FIR No. 224 dated 27.12.1996 is finally decided.

3. Learned counsel for the appellant has argued that cause of action accrued to appellant to seek damages from the day he was discharged by Court on police report vide order dated 31.10.2000, as such, learned Ist Appellate Court was required to appraise the evidence on record and decide the matter on merit. Even the revision petition (CRM-M-8846 of 2004) filed by Jarnail Singh and others was also accepted by this Court vide order dated 08.02.2012 and order dated 17.01.2004 passed by Additional Sessions Judge, Patiala was set aside. Resultantly, the police report seeking discharge of appellant in above referred criminal case has attained finality and order passed by Judicial Magistrate, discharging appellant has become final.

4. Perusal of judgment dated 24.05.2010 passed by learned Additional District Judge, Patiala reveals that appeal was dismissed with the observation that the matter relating to registration of FIR No. 224 dated 27.12.1996 for offences punishable under Sections 3 and 4 of the Immoral Traffic (Prevention) Act, 1956 was still pending. Learned Ist Appellate Court did not decide the appeals on merit. Since revision petition (CRM-M-8846 of 2004) has already been decided and the matter

discharging the appellant in case bearing FIR No. 224 dated 27.12.1996 has attained finality, appellant is entitled to seek decision of his claim seeking damages for false prosecution, decided on merit.

5. Consequently, the appeals are ordered to be remitted to District Judge, Patiala for decision on merit, where the parties will appear on 06.09.2016. Ist Appellate Court will take up all the three appeals (captioned above) and decide the same on merit.

Disposed of.

July 25, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No