

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

**R.S.A No.3818 of 2013 (O&M)
Date of decision :25.02.2016**

Kamaljeet Kaur and others

..... Appellants

Versus

Saroj Bala

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Gurcharan Dass, Advocate
for the appellants.

DARSHAN SINGH,J

CM-10288-C of 2013

There is delay of 214 days in re-filing the present appeal.

Heard on the application.

In view of the reasons mentioned in the application, the application stands allowed and the delay of 214 days in re-filing the appeal is hereby condoned.

R.S.A No. 3818 of 2013

The present appeal has been preferred against the judgment and decree dated 17.08.2012 passed by the learned District Judge, Bathinda, vide which the appeal preferred against the judgment and decree dated 27.07.2010 passed by learned Additional Civil Judge (Sr.

Division), Bathinda has been partly accepted. The judgment and decree passed by the learned trial Court has been upheld with modifications.

2. For the sake of convenience, the status of the parties is being mentioned as in the original suit.

3. Plaintiff-respondent Saroj Bala filed the suit for recovery of Rs. 5 lacs as compensation/damages for defamation.

4. As per the case of the plaintiff-respondent, they are having good reputation in the society. Appellant-Kamaljeet Kaur is the wife of Dr. Ramesh Kumar, the real brother of the husband of the plaintiff and is in Govt. service in Health and Family Welfare Department of Punjab. He is a gazetted officer and holds very good reputation amongst public as well as his colleagues. Appellant-defendant Kamaljeet Kaur had strained relations with Dr. Ramesh Kumar. The defendants made false allegations that the plaintiff-respondent has got illicit relations with Dr. Ramesh Kumar. These allegations were levelled by them to settle scores with Dr. Ramesh Kumar and to defame the plaintiff-respondent in the eyes of her husband, society and public at large. Appellant-Kamaljeet Kaur addressed a letter in October, 2002 to the Minister, Health and Family Welfare, Punjab, Chandigarh with copies to the Principal Secretary, Health and Family Welfare, Punjab and Director, Health Services, Punjab by leveling the allegations against Dr. Ramesh Kumar and the plaintiff of having illicit relations. Dr. Ramesh Kumar has filed the divorce petition against the appellant on 15.11.2002. On 30.12.2002, appellant lodged a false FIR against the plaintiff, Dr. Ramesh Kumar, his parents and his brother. But, she did not levelled any allegations of illicit relations in that FIR, in her

application under Section 125 Code of Criminal Procedure (for short 'Cr.PC') and even in the reply filed in the divorce petition knowing fully well that the said allegations were false. Civil Surgeon, Bathinda has sent the letter of October, 2002 written by appellant-defendant no.1 to Dr. Ramesh Kumar and they were astonished to see the false allegations. The plaintiff and her children were upset as they were taunted by other children in the school and neighbours looked down the plaintiff since the day of alleged false allegations. Hence the suit.

5. Appellants-defendants contested the suit on the grounds *inter alia* that plaintiff does not enjoy good reputation in the community. Husband of the appellant-defendant no.1 used to harass and humiliate her for the demand of dowry in cash and kind, in connivance with the other family members. He also did not enjoy good reputation in the public. The appellant-defendant no.1 maltreated, harassed and humiliated by him. Plaintiff had also filed a complaint under Section 500 IPC against the defendants. It was further pleaded that defendant no.1 never levelled the false allegations of illicit relations between the plaintiff and her (appellant's) husband. Thus, they prayed for dismissal of the suit.

6. From the pleadings of the parties, the following issues were framed by the learned trial Court:-

1. Whether plaintiff is entitled for recovery of Rs. 5 lacs from defendant for reasons mentioned in the plaint?OPP
2. Whether plaintiff is entitled to interest if so at what rate?OPP
3. Whether suit is not maintainable in the present form?OPD
4. Whether suit is not properly valued for purpose of court fee and jurisdiction?OPD
5. Whether plaintiff has no locus-standi and cause of action to file

the suit?OPD

6. Whether defendants are entitled to special costs?OPD

7. Relief.

7. On appreciating the material on record and the contentions raised by learned counsel for the parties, the learned trial Court decreed the suit of the plaintiff-respondent for recovery of Rs. 5 lacs along with interest at the rate of 6 % per annum from the date of filing the suit till actual payment.

8. Aggrieved with the aforesaid judgment and decree, appellants preferred the appeal. Learned First Appellate Court partly accepted the appeal and the judgment and decree passed by the learned trial Court was modified. The plaintiff-respondent was held entitled to recovery of Rs. 2,50,000/- along with interest at the rate of 6 % per annum from the date of filing the suit till realization of the decretal amount. Hence, this regular second appeal.

9. I have heard Mr. Gurcharan Dass, Advocate, learned counsel for the appellants and have meticulously gone through the paper book.

10. Initiating the arguments, learned counsel for the appellants contended that the learned Courts below have decreed the suit against the deceased-appellant Gurdeep Singh, the father of appellant Kamaljeet Kaur, even though he was not the signatory to the letter sent to the higher authorities. He further contended that said Gurdeep Singh was even acquitted in the complaint filed by the plaintiff-respondent under Section 500 IPC. Thus, he contended that the learned Courts below were not at all justified to pass the decree against Gurdeep Singh, the father of the

appellant-Kamaljeet Kaur.

11. He further contended that appellant-Kamaljeet Kaur was harassed and tortured by her husband Dr. Ramesh Kumar for the demand of dowry. She even got registered a criminal case against Dr. Ramesh Kumar and his family members. Due to that reason, the plaintiff has filed the suit in order to settle the scores. He further contended that the appellants had never levelled any false allegations of illicit relations against the plaintiff. Thus, he contended that the plaintiff-respondent was not entitled to any damages.

12. I have duly considered the aforesaid contentions.

13. The learned trial Court while recording the findings under issue no.1 has categorically mentioned that the plaintiff is entitled to recover the damages from the defendants jointly as well as severally. The position has been further clarified by the learned First Appellate Court by observing that as Gurdeep Singh-appellant/defendant no.2 has expired during the pendency of the appeal and his legal representatives have brought on record so, the death of Gurdeep Singh will not render the decree passed by the Courts below illegal or in-executable.

14. As per the case of the plaintiff-respondent, the defendants have levelled the allegations that she was having illicit relations with Dr. Ramesh Kumar, the brother of her husband, who happens to be the husband of appellant-Kamaljeet Kaur. It is alleged that these false allegations has lowered down the prestige of the plaintiff in the eyes of the community/society and public at large and she suffered defamation. The appellant-Kamaljeet Kaur has alleged that she was harassed by her

husband on account of demand of dowry. This defence put forward by the appellants has nothing to do with the allegations of illicit relations levelled against the plaintiff-respondent.

15. The plea taken by the appellants that they have never levelled the false allegations of illicit relations has no legs to stand. Plaintiff-respondent has examined PW-2 Jaswinder Singh, Jr. Assistant, Civil Surgeon Office, Bathinda, who has brought the record of the office of Civil Surgeon, Bathinda. He proved the copy of the application/complaint Ex.PW3/A addressed by appellant to the Minister, Health and Family Welfare, Punjab, Chandigarh, wherein the allegations were levelled that the plaintiff was having illicit relations with Dr. Ramesh Kumar, the husband of the appellant-Kamaljeet Kaur. The application Ex.PW3/A was signed by appellant-Kamaljeet Kaur. Appellant-Kamaljeet Kaur in cross-examination has denied her signatures on the application Ex.PW3/A. But, the plaintiff-respondent has examined Anil Kumar Gupta, the hand writing and finger print expert as PW-6, who has filed his report EX.PW6/1 and he has given the definite opinion that the disputed signatures of Kamaljeet Kaur appearing on the above said application are similar in their writing character with the standard signatures of Kamaljeet Kaur. He further opined that the disputed as well as the standard signatures have been written by one and the same person. Thus, it is proved that appellant-Kamaljeet Kaur has written the letter Ex.PW3/A to the Minister, Health and Family Welfare, Punjab, Chandigarh in the month of October, 2002, wherein it was mentioned that plaintiff was having illicit relations with Dr. Ramesh Kumar, the husband

of appellant no.1. The writing of the said letter clearly amounted to publication of the imputation concerning the character of the plaintiff, which certainly harmed the reputation of the plaintiff and she was defamed. The plaintiff has also examined PW-1 Moti Ram and PW-4 Raj Kumar. They deposed that when they came to know about the aforesaid letter written by Kamaljeet Kaur, they looked down the plaintiff and her reputation was lowered down in their eyes and the eyes of the public at large. Plaintiff herself has stepped into the witness box as PW-2 and corroborated the entire allegations mentioned in the plaint.

16. No doubt, appellant no.2-Gurdeep Singh (deceased) was acquitted in the criminal complaint filed by the plaintiff under Section 499/500 IPC. But, it is the settled principle of law that acquittal in the criminal case has no bearing in the civil suit as the standard of proof in the criminal case and the civil suit is entirely different. As in the criminal case, the complainant is required to prove the allegations beyond shadow of reasonable doubt, whereas in the civil suit, the findings are to be recorded on the basis of preponderance of probabilities. The plaintiff as well as the other witnesses examined by her have deposed that on 15.09.2002, appellant no.2-Gurdeep Singh had visited Bathinda. They raised quarrel with Dr. Ramesh Kumar and his parents and levelled the allegations that plaintiff was having illicit relations with her younger brother-in-law Dr. Ramesh Kumar. These utterances are alleged to have been made in the full public view in the street. Thus, there was no reason to absolve of deceased-Gurdeep Singh from the civil liability. The appellants-defendants have not adduced any evidence to show that the

allegations levelled by them were not false and were levelled in good faith. Thus, I have no reason to differ with the findings recorded by the learned Courts below that the appellants have defamed the plaintiff-respondent by levelling the false and baseless allegations of her having illicit relations with Dr. Ramesh Kumar. Therefore, she was certainly entitled for the damages.

17. Thus, no question of law, much less, the substantial question of law as claimed by the appellants arises in the present appeal.

18. Consequently, the present appeal having no merits is hereby dismissed with no orders as to costs.

February 25, 2016

s.khan

(DARSHAN SINGH)
JUDGE