

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

RSA-5080-2015 (O&M)

Date of decision: 12.01.2016

Daljit Singh Grewal

...Appellant(s)

Versus

Ram Singh and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajesh Punj, Advocate for the appellant(s).

JITENDRA CHAUHAN, J.

The instant regular second appeal has been preferred against the judgment and decree dated 05.03.2013, passed by the learned Civil Judge (Junior Division), Ludhiana (for short, 'the trial Court'), whereby, the suit of the plaintiff-appellant has been dismissed and judgment and decree dated 25.02.2015, passed by the learned Additional District Judge, Ludhiana (for short, 'the first Appellate Court'), whereby, the appeal preferred by the plaintiff-appellant against the impugned judgment and decree dated 05.03.2013, of the trial Court, has also been dismissed.

The plaintiff filed suit for recovery of Rs.1,00,000/- on account of damages and injury caused to his reputation and

profession as well as for uncalled expenses incurred on litigation by the plaintiff due to intentional defamation and character assassination by the defendants. The trial Court, vide the impugned judgment and decree dated 05.03.2013, dismissed the suit after returning issue-wise findings to the effect that the plaintiff has failed to prove his claim of Rs.1,00,000/- as damages.

The learned first Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record vide impugned judgment and decree dated 25.02.2015..

Hence, this appeal at the behest of the plaintiff.

Learned counsel for the appellant has submitted that the factum of registration of the FIR against the plaintiff-appellant and the news item published in various newspapers with regard thereto, are sufficient to prove that the plaintiff has been defamed and his reputation has been lowered. The proceedings initiated against the appellant were malicious ab initio which stands fully proved from the fact that three inquiries were conducted, wherein, the appellant was found innocent and the FIR registered against him was cancelled.

I have heard learned counsel for the appellant and gone through the case file.

The sole question that arises for consideration of this

Court is whether the complaint filed against the appellant was actuated by malice or not.

It is contended that on the basis of false and frivolous allegations with intention to harm the reputation of the plaintiff in the eyes of his friends and general public, the complainant got FIR No.355 dated 06.02.2002, under Sections 420, 452, 148, 149 of the Indian Penal Code registered against him. The fact of registration of the FIR was also got published by the respondent-defendant in various newspapers. In the light of the above submissions, it is contended that the aforesaid act of the respondent, wherein, cancellation report was subsequently filed, has harmed the reputation of the appellant. In his cross-examination, the appellant has conceded that three cases were registered against him by the Vigilance Bureau under the Prevention of Corruption Act. It has not come on record that the appellant raised any grouse with regard to above referred FIRs, nor the evidence of any payment to his counsel has come on record, on the basis of which monetary loss, if any, could be ascertained. It was also asserted by the appellant that on account of the registration of the FIR, the appellant's health suffered and he had to take treatment. However, no record has been produced by the appellant in this regard. The learned counsel has also failed to refer to any evidence that the complainant in the FIR, Ram Singh-respondent, in any manner, has the capacity to

influence the publication of the news item by Daily Ajit. As per the record, in fact, the story was forwarded to the editor by the correspondent on the basis of the report sent by the reporter, Parminder Singh Ahuja. The new item had also appear in the daily newspaper, The Tribune. PW-4, Vijay Verma, was also examined in this regard, however, nothing could be elicited from him as to who got the item published in the newspaper.

From the testimony of Head Constable, Surinder Pal Singh, the factum of the cancellation report having been filed in the FIR in question is established.

Thus, considering the fact that the appellant was involved in other FIRs including the FIRs under the Prevention of Corruption Act, the testimony of HC Surinder Pal Singh that the cancellation report was filed and in the absence of any proof with regard to any expenses incurred by the appellant on account of registration of the FIR in question, this Court is of the considered view that the plaintiff has failed to bring any evidence on record to substantiate his case. Thus, it cannot be said that the defendants prosecuted the plaintiff without reasonable or probable cause and the complaint was actuated by malice. The mere registration of the FIR against the plaintiff and some unknown persons, is not sufficient for the success of the case of the plaintiff.

In view of the above, this Court finds that no question

of law, much less substantial question of law arises in the present appeal or the impugned judgments passed by the learned Courts below suffer from any perversity which calls for any intervention by this Court.

Accordingly, the present appeal is hereby dismissed.

12.01.2016

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(JITENDRA CHAUHAN)
JUDGE