

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

RSA No.3498 of 2014 (O&M)

Date of Decision.06.12.2016

Mangal Singh

.....Appellant

Vs

M/s Amrit Hire Purchased Ltd. and another

.....Respondents

Present: Mr. Krishan Sehajpal, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.8097-C of 2014

For the reasons stated in the application, delay of 229 days in re-filing the appeal is condoned.

Application is allowed.

C.M. No.8098-C of 2014

For the reasons stated in the application, delay of 10 days in filing the appeal is condoned.

Application is allowed.

RSA No.3498 of 2014

The appellant-plaintiff is aggrieved of the judgment and decree rendered by the lower Appellate Court whereby the suit of the plaintiff claiming ₹2 lacs as damages for malicious prosecution along with interest @24% has been dismissed, though the trial Court had granted ₹1 lac as damages along with interest @12% per annum.

Mr. Krishan Sehajpal, learned counsel appearing for the

appellant-plaintiff submits that the appellant-plaintiff had taken a loan from

the respondent for finance of the vehicle i.e. old Tata Sumo bearing registration No.DL-6-CA-6647 vide agreement of July, 2003. The entire amount of loan was to be paid in 36 installments @ ₹4900/- per month. The amount of ₹50,000/- was paid but thereafter, the remaining amount could not be paid. The cheques in lieu of the aforementioned agreement were also issued. The respondent unauthorizedly taken possession of the vehicle and sold for a paltry amount and also proceedings under Section 138 of the Negotiable Instruments Act were initiated, which resulted into honourable acquittal. All these facts are sufficient for granting compensation/damages but the lower Appellate Court has committed illegality and perversity in accepting the appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the except bringing on record order dated 20.4.2007, Ex.P2 and judgment dated 10.09.2007, Ex.P3, no other evidence has been brought on record to claim damages for malicious prosecution. In order to succeed in such kind of suit, independent evidence has to be led and not only copy of the order whereby the appellant-plaintiff had been acquitted. The aforementioned view of mine is derived from the ratio decidendi culled out from the judgment of Hon'ble Supreme Court in **West Bengal State Electricity Board Vs. Dilip Kumar Ray 2007 AIR (SC) 976** and judgment of this Court in **Tarwinder Kumar Bedi Vs. Jit Parkash 2015 (2) PLR 92** that judgment of acquittal would not be sufficient evidence, entitling the plaintiff to succeed in the suit.

For the reasons aforementioned, I do not intend to differ with the finding rendered by the lower Appellate Court as the same is based upon correct appreciation of fact and law, much less, no substantial question of

law arises for consideration. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 06, 2016
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No