

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

RSA-558 of 2014 (O&M)

Date of decision: 17.05.2016

Sant Shamsher Singh Jagerewala

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Mohan Gupta, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

CM-1331-C-2014

This is an application for condonation of delay of 72 days in refiling the appeal. It is averred that the appeal was filed on 10.07.2013 within limitation but the same was returned with objections on 12.08.2013. Thereafter, delay was caused as the paper book of the present appeal got misplaced in other cases in the office.

Keeping in view the averments made in the application and the accompanying affidavit, and the fact that the objections were minor in nature, there appears to be sufficient

cause for allowing the same. The delay of 72 days in refiling the present appeal is hereby condoned subject to all just exceptions.

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The suit for recovery filed by the plaintiff/appellant (for short 'the appellant') was dismissed by the trial Court vide judgment and decree dated 08.06.2012.

2. Aggrieved against the findings of trial Court, the appellant filed an appeal which was dismissed by the learned first Appellate Court, vide judgment and decree dated 19.03.2013.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal at the behest of the appellant.

4. It is contended that both the Courts have gravely erred in holding that the suit is barred by limitation. The suit was filed well within time as the petitioner was released after discharge on 19.08.2005. Both the Courts have not taken into consideration the illegal act of the police officials in arresting the accused on false and frivolous FIR and thereafter, seeking discharge of the appellant, which proves that the entire approach of the police officials was to defame the appellant. The appellant

had joined the religious path and has thousands of devotees. The police had registered a false FIR dated 03.11.2004 under Sections 420/468/471 IPC and Section 12 of the Passport Act against the appellant without there being any evidence which clearly demonstrates malice on the part of the police.

5. Heard, the learned counsel for the appellant and perused the record carefully.

6. The appellant had filed the suit for recovery of Rs.20 lacs on the ground of defamation/loss of reputation. He claims to have renounced the worldly life and claims to have thousands of devotees. He asserts that his image was tarnished on account of false FIR registered by the police officials in which he was subsequently discharged. He alleged that a great irreparable loss has been caused to him on account of false FIR. Under Article 74 of the Limitation Act, 1963, the limitation for filing suit for compensation for malicious prosecution is one year from the date of acquittal or prosecution is otherwise terminated. In the instant case, the appellant was discharged on 19.08.2005, whereas, the suit was filed on 01.11.2006, after expiry of more than one year. Concededly, there is no provision of law to condone the delay in filing the suit. Such power is vested with regard to appeals and applications only. The entertainment of the

suit filed beyond the period of limitation after condoning the delay was impermissible in law. Reference can be made to Division Bench judgment of Hon'ble Patna High Court in **Tilakeshwar Singh Vs. State of Bihar and others**, AIR 2004 Patna 100. Furthermore, with regard to statutory limit of one year provided under Article 74 of the Act, it has been held in **Malabai** Vs. **Sumanbai**, 2007(1) ALL MR 102, that once the starting point of limitation for the accused for a civil action to claim compensation for malicious prosecution begins, it does not thereafter stop. When time begins to run, save and except provided by law, the running of limitation cannot be deferred, or kept in abeyance. So, this Court concurs with the Courts below that the suit is hopelessly time barred. The Court became helpless to grant relief in time barred cases. This Court has considered the matter with regard to delay as well as on its merit as well. There is no illegality or perversity in the impugned judgments and decrees passed by the Courts below. Had there been any malice on the part of the police, they would not have filed an application for discharge and further would have collected false evidence and would have put him to trial. Learned Courts below have rightly held that the gesture of the police for getting him discharged shows that there was no malice on the

part of the prosecution.

7. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeal. Hence, no interference is called for.

Dismissed.

17.05.2016

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(JITENDRA CHAUHAN)
JUDGE