

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

Civil Revision No.7171 of 2014

Date of Decision: 14.11.2017

Rajinder Singh

.....Petitioner

Vs.

Simranjit Kaur alias Simar and Anr.

.....Respondents

Civil Revision No.7189 of 2014

Varinder Singh

.....Petitioner

Vs.

Simranjit Kaur alias Simar and Anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Vaibhav Narang, Advocate, and
Mr.A.K.Vermani, Advocate, for the petitioner.

Mr.Kishagra Mahajan, Advocate, for the respondents.

RITU BAHRI, J. (ORAL)

The petitioner has come up in revision for setting aside/quashing the order dated 08.09.2014 and 23.07.2012 passed by learned Additional Civil Judge(Sr.Divn.) Amritsar, vide which the plaint filed by the petitioner has been rejected under Order 7 Rule 11 CPC and the petitioner has been directed to pay ad-valorem Court fee with regard to his said claim.

The plaintiff had filed a suit for grant of damages and compensation on account of malicious prosecution being launched by defendants/respondents in shape of an FIR No.157 dated 29.10.2012 registered at Police Station B Division, Amritsar for the offence under

pleaded that brother -in-law of the petitioner i.e. Varinder Singh alias Romi was fallen into love affair with Simranjit Kaur, respondent No.1. On 19.07.2010 both the persons performed marriage at Amritsar. Thereafter, both co-habited together as husband and wife but respondent No.1 wanted to get the job, as such as per the consent of brother-in-law of the petitioner, Varinder Singh, she had gone to stay in the parental house and Virender Singh had accompanied her. She had got a job in the PNB and started building pressure upon said Varinder Singh to say that no marriage ever has been performed between them. Varinder Singh denied such type of demand, on which, she was threatened that he and her family members will be implicated in false cases. Thereafter, when the demand of respondent No.1 was not accepted then she hatched a conspiracy along with respondent No.2 whereby she made a complaint to the police authorities that said Varinder Singh and her brother-in-law, the petitioner had raped respondent No.1 time and again. It was pleaded that petitioner is father of three children and is having his own family. Accordingly, an FIR No.157 dated 29.10.2012 registered at Police Station B Division, Amritsar, under Section 376/506/120-B IPC and Section 25/27/59/54 of the Arms Act against the petitioner and his brother-in-law said Varinder Singh. Also, in the case said Varinder Singh got arrested and has been sent to jail. Many representations have been made to the higher authorities praying for inquiry into the case. Finally the inquiry has been conducted, which ultimately reveal that defendants/respondents have got the criminal case registered against the brother-in-law of the petitioner and petitioner himself. The petitioner has faced the trial and ultimately the trial Court vide its judgment dated

petitioner and his brother-in-law Varinder Singh by holding that the allegations levelled against them has not been proved.

The petitioner and his other family members have suffered lot of mental and physical agony and during that period the entire reputation and dignity has been spoiled. Thereafter, petitioner has decided to file a suit for damages and compensation and he filed civil suit Annexure P-1. Learned trial Court vide order dated 23.07.2014 has held that petitioner has claimed an amount to the tune of Rs.25 lacs. Accordingly, the learned Court vide Annexure P-2, adjourned the case for making good the deficiency at the ad-valorem court fees with regard to recovery of Rs.25,00,000/-. Thereafter, on 08.09.2014, learned trial rejected the plaint filed by the petitioner under Order 7 rule 11 CPC for want of not tendering the ad-valorem court fees.

Learned counsel for the petitioner has referred to the two judgments passed by the Co-ordinate Bench of this court in the case of **Saleem Vs. Usman Gani and another passed in CR No.6892 of 2014 and Amandeep Sidhu Vs. M/s Ultratech Cement Limited and others passed in CR No.5893 of 2016**, wherein, it has been held that in a suit claiming for damages for malicious prosecution, the amount claimed was only tentative on which fixed Court fee was to be assessed with an undertaking to pay the remaining court fee as and when directed by the Court. Such an undertaking is a valid undertaking and the plaint cannot be rejected on account of deficiency in Court fee.

Learned counsel for the respondent has referred to the judgment passed by the Co-ordinate Bench of this Court in the case of **Ahluwalia & Associates, Architectural and structural Consultants Vs. M/s Baba Tele System Private Limited and another passed in CR No.7970 of 2015**,

wherein, it has been held that in a suit for damages on approximate claim of damages for malicious prosecution, the principles of valuation of suit in simple suits for recovery of liquidated claim will not apply for the purpose of Court fee.

In view of the above, this Court is of the opinion that both judgments referred by counsel for the petitioner is applicable to the facts in the present case. As such, both the revisions are allowed by setting aside the order dated 08.09.2014 (Annexure P-3) and 23.07.2014 (Annexure P-2) respectively.

(RITU BAHRI)
JUDGE

14.11.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No