

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

CR No. 7795 of 2016(O&M)

Date of decision: 28.11.2017

Rupinder Singh and anotherPetitioners

VERSUS

Manpreet Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. G.S. Lalli, Advocate for the petitioners.

Mr. P.K.S. Phoolka, Advocate for respondent No.1.

REKHA MITTAL, J.

Challenge in the present petition has been directed against order 07.09.2016 passed by the Civil Judge (Junior Division), Bathinda whereby application for dismissal of the suit against defendants No.4, 6 and 8 has been dismissed.

Counsel for the petitioners (defendants No.4 to 8 has submitted that respondent/plaintiff Manpreet Singh filed a suit for damages to the tune of Rs.50 lakhs for defamation, physical, mental harassment, agony, botheration and malicious prosecution against 8 persons namely Gurmail Singh and others. In para 4 of the plaint, it is averred that the plaintiff had come to know that behind the episode, defendants No.1 and 2 are master-mind because they had grudge against the plaintiff who had filed civil suit against defendant No.1 titled Manpreet Singh Vs. SDO pending in the Court of Civil Judge at Bathinda. All other defendants are partymen of defendants No.1 and 2. It is argued that as the respondent/plaintiff has withdrawn his suit against defendants No.1 and 2

as the matter statedly compromised between them, no cause of action survives against the petitioners, therefore, suit against the petitioners is liable to be dismissed. In support of his contention, he has referred to judgment of the Bombay High Court **SNP Shipping Services Pvt. Ltd. and others Vs. World Tanker Carrier Corporation, 2000(3) CivCC 145.**

Counsel representing the respondent/plaintiff has supported the impugned order with the submission that merely because the plaintiff has withdrawn his suit against defendants No.1 to 3 and 5 because of compromise, it does not create a ground in favour of the petitioners to seek dismissal of the suit. It is further argued that the averments raised in the plaint are to be read in its entirety and the petitioners cannot press for dismissal of the suit only by referring to the allegations raised in para 4 of the plaint. The last submission made by counsel is that judgment of the Bombay High Court has got no bearing on the facts of case in hand wherein the Court rejected the plaint on the ground that reading of averments made in the plaint and the document basis of the plaint does not disclose any cause of action. The Court looked at the so-called defamatory publications and found that references are made to the findings given by the New Orleans Court. A fair and accurate gist of the findings have been reproduced. The law with regard to privilege has also been settled. The commentary referred to by counsel for respondent No.1 makes it clear that there are certain occasions on which public policy and convenience require that a man may be free from responsibility for the publication of defamatory words.

I have heard counsel for the parties, perused the paper-book and the judgment cited at bar.

The respondent/plaintiff in paras 2 and 3 of the plaint has levelled allegations against all the defendants with regard to their having filed a false application before the SHO of Police Station Nahianwala alleging that the plaintiff used to catch the wandering cows and get bank loan for their insurance, kill them and thereafter grabbing amount of insurance and sell their flesh/skin, to cause loss in his business, body, mind and reputation. In para 3, there is reference to defamatory publication in Jagbani, Punjabi Tribune and Punjab Kesri dated 10.08.2013 to the same effect. In para 4, he has averred that defendants No.1 and 2 are the masterminds and all other defendants are partymen of defendants No.1 and 2. The mere fact that the plaintiff has withdrawn his suit against defendants No.1 and 2 on the basis of compromise effected between the parties, it is difficult to accept that no cause of action to pursue the remedy against the petitioners survives or the suit is liable to be dismissed. Counsel for the petitioners has failed to advance any meaningful argument as to how judgment of the Bombay High Court can be made applicable to the facts of the case in hand when otherwise they have not produced on record the alleged defamatory publication. In this view of the matter, I do not find any reason to interfere in the order impugned.

For the foregoing reasons, the petition fails and is accordingly dismissed. Nothing stated hereinbefore shall be construed as an expression of opinion on merits of the case.

NOVEMBER 28, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no