

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

RSA No.225 of 2016 (O&M)

Date of decision : 18.07.2017

Anokh Singh and another

...Appellants

Versus

Dalbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. K.S. Chahal, Advocate for the appellants.

ANIL KSHETARPAL, J.

The appellants-defendant Nos.2 and 3 are in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

The plaintiff had filed a suit for recovery of ₹15,00,000/- by way of damages. It was pleaded by the plaintiff that he was married to one Harneet Kaur in the year 1991 and they were blessed with a daughter namely Ravneet Kaur. The relationship between husband and wife was strained and marriage was irretrievably broken down. The plaintiff came to India to join the marriage of his niece and at that time, his daughter was residing in the house of defendant No.1. The defendant No.1 sent a message regarding illness of the daughter and he was further informed that his daughter was missing him. When defendant No.1 visited Sangrur, defendant No.1 handed over the custody of Ravneet Kaur to him. However, with a

mala fide intention alongwith other defendants, the defendant No.1 got lodged a false FIR against the plaintiff under Sections 364, 323, 342 IPC on the allegation that the plaintiff has forcibly kidnapped his own daughter i.e. Ravneet Kaur. Due to registration of the false case, the plaintiff, his father and the brother were arrested and remained in jail for more than three months. However, during the investigation, his father and brother were discharged. The plaintiff was acquitted by the then learned Sessions Judge, Sangrur. With these allegations, the plaintiff filed a suit for recovery of damages on account of loss of earnings, malicious prosecution, defamation, mental agony and harassment.

The defendants appeared and contested the suit. It was asserted that the plaintiff use to maltreat both his wife and minor daughter in USA and there was criminal case registered against the plaintiff. It was further asserted that the plaintiff has been kept on probation for a period of 36 months. It was further asserted that the plaintiff has sent back his daughter alongwith his father Hardial Singh immediately after registration of the case. It was further asserted that the plaintiff moved an application seeking custody of minor child in the Court at Kharar but the same was ordered to be dismissed on 14.06.2011. Defendant No.1 also moved an application for seeking direction to Hardial Singh to hand over the passport and green card of daughter so that she can be sent to USA to join her mother there. The aforesaid application was also allowed by the Court. However, the passport and green card was never returned.

The learned trial Court, after appreciating the evidence available on the file, found that the registration of the criminal case against

the plaintiff by defendants was clearly with a mala fide intention to falsely implicate him in the criminal case. The learned Sessions Judge, acquitted the plaintiff with a finding that the prosecution has failed to prove its case against the accused. It was further found that Gurdial Kaur-defendant No.1 tried to falsely implicate the plaintiff. The learned trial Court ordered that the plaintiff is entitled to compensation of ₹2,00,000/- against all the defendants alongwith interest at the rate of 9% p.a. from 02.03.2004.

An appeal filed by the defendants-appellants was ordered to be dismissed by the learned First Appellate Court after re-appreciating the evidence available on the file. It was found that the plaintiff was maliciously prosecuted and falsely implicated.

Counsel for the appellants has made two submissions. Firstly, he has submitted that the Courts have not given any finding on malicious prosecution. He has further submitted that merely because someone has been acquitted in a criminal case would not give rise to cause of action to the accused to file a suit for damages.

I have considered the contentions of learned counsel for the appellants but I am unable to agreed with him.

Both the Courts below have found as a matter of fact that plaintiff was trapped and then falsely implicated in a false case. The registration of the FIR against the plaintiff was with a mala fide intention and on that count, the plaintiff had to remain in jail for a period of three months. The learned First Appellate Court re-affirmed the finding arrived at by the Courts below.

Therefore, it is not correct on the part of the counsel for the

appellants to make submissions that there is no finding on malicious prosecution.

There is no doubt that merely because the accused is acquitted, every accused is not entitled to compensation on account of malicious prosecution. But in the present case, as found by both the Courts below, there was false implication of plaintiff, his father and brother. It has further been found that the plaintiff was trapped and thereafter with a mala fide intention, FIR was got registered. In these circumstances, the plaintiff was entitled to file a suit for recovery of damages.

Learned counsel for the appellants has not been able to point out any substantial questions of law as per the provision of Section 100 of CPC. Learned counsel for the appellants has further not been able to point out any ground for interference in the concurrent findings of fact as per the provision of Section 41 of the Punjab Courts Act, 1918.

With the aforementioned observations, present appeal is dismissed.

18.07.2017
Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**