

R.S.A. No. 4464 of 2015 (O&M)

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

R.S.A. No. 4464 of 2015 (O&M)

Date of Decision: 16.12.2017.

Maha Singh

.....Appellant

Versus

Dharambir @ Dharma and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

**Present: Mr. R.S. Panghal, Advocate
for the appellant.**

AVNEESH JHINGAN, J.

The plaintiff has filed the present regular second appeal being aggrieved of concurrent judgments and decrees of the Courts below dismissing his suit for damages.

The parties for the sake of convenience are being referred to as per their status in the original suit.

The plaintiff was a permanent resident of Village Rudroal, Tehsil Charkhi Dadri and was serving as a guard in Mining Department of Government of Haryana, Mini Secretariat, Bhiwani. It was alleged that the defendants agreed to cultivate the land of the plaintiff but left the fields in between. To settle the dispute, the Panchayat was convened on 30.4.2008 and the matter was settled on the conditions that defendants would be paid Rs.10,242/-. The settlement was jotted down in writing. The plaintiff alleged that the defendants in order to harass, humiliate and defame him made several complaints to the SSP Bhiwani and DC Bhiwani etc. As per the plaintiff the said complaints were found false and a case under Section 182

IPC was filed against the defendants. The plaintiff pleaded that he had to take leave and permission from his office authorities to attend the false complaints. It was stated that the defendants defamed him at his work place. The case of the plaintiff is that his reputation has been lowered down in the eyes of the society because of the complaints made by the defendants and he has also suffered economic loss. Hence, the suit was filed claiming damages of Rs. 1 lakh along with interest.

On notice, written statement was filed. Apart from the preliminary objections, on merits, it was averred that the plaintiff threw the defendants out of his fields when his crops were ready and even never paid the amounts spent by the defendants for raising the crops. It was averred that the present suit is just a counter blast against the case filed by the defendants. The version of defendant No.1 was that he had only made the complaints to protect himself but no action was taken on his complaints. It was denied that the plaintiff had taken any leave from his office to pursue the complaints.

The learned trial Court framed three issues.

In order to prove the case, the plaintiff himself appeared as PW3 and examined Shamsher Singh, Manju, Daya Chand, Amir Singh, EASI Rajesh Kumar as PW1, PW2, P4 to P6. Copies of letters, complaints, statements were exhibited as Ex.PW2 to PW6.

In order to rebut the claim, the defendant No.1 himself appeared as DW1.

Learned Trial Court after appreciating the facts and considering the evidence produced, decided issue No.1 against the plaintiff and issue Nos. 2 and 3 were not pressed. The net result was that vide judgment and

decree dated 15.4.2013, the suit was dismissed.

Aggrieved of the judgment and decree, an appeal was filed. Learned District Judge, Bhiwani, vide judgment and decree dated 6.5.2015 dismissed the appeal. Hence, the regular second appeal.

Learned Courts below dismissed the suit on the ground that the plaintiff failed to prove the ingredients of defamation. It has further been held that it has not been proved that the reputation of the plaintiff was lowered in the society and that any such incident took place in his office. The plaintiff has failed to prove any harassment, mental agony or economic loss. No details were given by the plaintiff regarding the date or timing when he had to appear before the police officials etc in consequence of the complaints filed by the defendants.

Learned Appellate Court after re-appreciating the facts and re-considering the evidence, gave a concurrent finding that apart from vague allegations, the plaintiff has neither proved nor given the details when he appeared before the authorities concerned in connection with the complaints allegedly made by defendants. It was further held that no details or witness has been produced to establish that defendants had defamed him at his work place.

In the present appeal, the contention raised by learned counsel is that the Courts below have erred in holding that mental agony/harassment was not proved and that the judgment and decrees are based on surmises and conjunctures. His argument is that filing of a complaint to the police itself lowers the name of the person in the society. Though four questions of law have been framed in the appeal filed, but at the time of arguments, only the above mentioned contentions were raised.

The scope under Section 100 CPC in regular second appeal is very limited. The appeal lies only on substantial questions of law. In the present case, no question of law much less substantial question of law has been raised. In the regular second appeal concurrent factual finding recorded by the Lower Courts are not ordinarily interfered with. No exception has been pleaded in the present case calling interference in the judgments and decrees.

Hon'ble the Apex Court in Chandra Bhan Vs. Pamma Bai, 2002 (9) SCC 565, held that interference with the concurrent finding of fact by both the Courts below is not justified.

Hon'ble the Apex Court in **Sakhahari Parwatrao Karahale and another Versus Bhimashankar Parwatrao Karalhe** 2002 (9) SCC 608 held that interference in the concurrent finding of Courts below is not justified except where the findings recorded by the Courts below are without any basis either in the pleadings or in the issues framed.

In the present case it has not been pointed out that the trial Court or the First Appellate Court mis-directed themselves in appreciating the questions of law or has placed onus on a wrong party.

In such circumstance, no interference is called for.

Moreover, during the course of hearing, learned counsel for the appellant could not point out any illegality or perversity in the impugned judgments and decrees passed by the learned Courts below. He also could not refer to any question of law, much less substantial question of law, which is sine-qua non for entertaining regular second appeal, at the hands of this Court, while exercising its appellate jurisdiction under Section 100 of the Code of Civil Procedure, 1908.

The findings recorded by the First Appellate Court as well as the trial court have been found factually correct and legally justified. Thus, no fault can be found in the impugned judgments and decrees passed by the Courts below and the same deserve to be upheld.

No ground for interference has been made out.

Resultantly, with the above-said observations made, the instant regular second appeal stands dismissed, being devoid of any merit, however, with no orders as to costs.

16.12.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No