

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

**RSA No.119 of 2017 (O&M)**

**Date of Decision:22.02.2017**

**Jatinder Singh and others**

**.....Appellants**

**Versus**

**Krishna Puri son of Gurdial Singh**

**.....Respondent**

**CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.**

**Present: Mr.Ashok Bhardwaj, Advocate,  
for the appellants.**

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**RAMESHWAR SINGH MALIK, J.(Oral)**

Unsuccessful defendants are in regular second appeal against the impugned judgment and decree dated 01.07.2016 passed by the learned first appellate Court, whereby their first appeal was dismissed and the impugned judgment and decree dated 21.01.2014 of the learned trial Court, decreeing the suit for recovery and permanent prohibitory injunction, were upheld.

Brief facts of the case, as noticed by the learned trial Court in para 2 of its impugned judgment, are that plaintiff was working as a Clerk in the office of Nagar Council, Sangrur and was appointed by Chief Medical Officer, Sangrur. He was 46 years of age and was well educated. He was maintaining the records of births and deaths. Plaintiff had a wife, two sons namely Gurdit Singh 19 years of age and Hardit Puri 15 years of age, two daughters Jashanjot Kaur alias Simran and Veena Rani. Jashanjot Kaur was married to Dhanwant Puri at Lehragaga. Plaintiff had a good service record

and enjoys good reputation in the society. Plaintiff used to work even after the office time of 5 P.M. and on Saturdays and Sundays due to heavy rush on the seat of the plaintiff. Defendant No.2 was chairman of City Plus Channel, Sangrur and defendants No. 1 to 6 were directly associated with the running of the channel. On 15.07.2007 i.e. Sunday at 4 P.M., plaintiff was working in his office. One Rajesh Kumar son of Ashok Kumar entered the premises of Nagar Council and then in the office of the plaintiff. Suddenly, defendant No.2 entered the room with movie camera where plaintiff was doing the office work. Defendant No.2 started shooting. On asking, plaintiff disclosed that he was performing the official work even on Saturday and Sunday due to rush of work. Some fruits like bananas etc. were also lying on the table which plaintiff offered to defendant No. 2. The said room was not allotted to the plaintiff exclusively. But other officials of the Nagar Council also work in it. On 16.07.2007, defendant No.2 came in the office of Nagar Council before 5 P.M. met the then Vice President Sh.Moti Lal and also recorded the conversation of plaintiff, Sh. Moti Lal and defendant No.2 on the movie camera. Defendant No.2 also met Deputy CMO Sangrur Sh. K.C.Goyal and recorded the conversation on camera. Thereafter, defendant no.2 called the plaintiff at Dullat House and demanded Rs. 50,000/- and threatened that he will telecast the CD on the City Plus Channel. Plaintiff refused to accede to the demand. Thereafter, defendant No.2 regularly telecasted the CD on defendant No.1 Channel under the title “Ayashon ke Ayash” since 16.07.2007. The defamatory wording was used including taking of intoxicants and “Ayashi” in the telecast. Vide letter No. 246/PA/DC (R) dated 24.07.2007 letter was written by Deputy Commissioner to EO, Nagar Council stating therein that

defendant no.2 had given the CD in which plaintiff along with one other private person was shown taking some eatables and one empty bottle of liquor lying which shows the sorry state of affairs. Explanation from the plaintiff along with report and comments were sought. On this, vide letter No. 1893/J dated 25.05.2007, the EO asked the comments of the plaintiff. Plaintiff replied the same on 30.07.2007 and stated that false allegations were leveled against the plaintiff. That plaintiff was doing the official work and defendant No.2 had demanded Rs. 50,000/- but he refused to accede to the illegal demand. That the defendants had shown a bottle of liquor lying in the corner of the office room with which plaintiff has no concern. Plaintiff had not consumed any liquor. The allegations were false. Like wise, Civil Surgeon, Sangrur wrote letter No. EI/07-993 dated 01.08.2007 and plaintiff sent the reply to the same on 06.08.2007. Defendants had defamed the plaintiff in the eyes of general public, friends, colleagues by telecasting the CD w.e.f. 16.07.2007. Plaintiff was entitled to damages to the tune of Rs. 4 lac along with interest. Defendants be restrained from telecasting the CD. Plaintiff send registered notice dated 23.07.07 through his counsel Sh. Lalit Kumar Garg, Adv. to defendants No. 1 and 2. Thereafter, the suit was filed.

Having been served in the suit, defendants appeared and filed their joint and contesting written statement, raising more than one preliminary objections. Plaintiff filed his replication. On completion of pleadings of the parties, learned trial Court framed the following issues:-

*“1. Whether the plaintiff is entitled to recover the amount of Rs.4,00,000/- on account of defamation as prayed for? OPP*

*2. Whether the plaintiff is entitled to interest @ 12% p.a. as prayed for? OPP*

*3. Whether the plaintiff is entitled to permanent*

*injunction as prayed for? OPP*

4. *Whether the plaintiff has no locus standi to file the present suit? OPD*

5. *Whether the plaintiff is estopped by his act and conduct from filing the present suit? OPD*

6. *Whether suit of the plaintiff is bad for non-joinder and mis-joinder of necessary parties? OPD*

7. *Relief.”*

With a view to substantiate their respective pleaded cases, both the parties produced their documentary as well as oral evidence. After hearing the learned counsel for the parties and going through the evidence brought on record, learned trial Court came to the conclusion that the plaintiff has duly proved his case. Accordingly, suit for recovery and permanent prohibitory injunction was decreed by the learned trial Court vide its impugned judgment and decree dated 21.01.2014. Dis-satisfied defendants filed their first appeal which came to be dismissed by the learned first appellate Court vide its impugned judgment and decree dated 01.07.2016. Hence, this regular second appeal, at the hands of the defendants.

Heard learned counsel for the appellants.

A bare combined reading of the impugned judgments and decrees passed by both the Courts below will make it abundantly clear that the plaintiff has duly proved his case by leading cogent and convincing evidence. Learned courts below have recorded concurrent findings of facts, which have been found based on sound reasons and call for no interference at the hands of this Court.

In fact, in that instant case, appellants seem to be not only

from freedom of speech and expression, as guaranteed by Article 19(1)(a) of the Constitution of India. However, in the very nature of things, it could never have been an absolute right of the appellants. It goes without saying that every right is subject to the duty of the citizen exercising said right. It is so said because duty of one person is the right of other person and vice-versa. If every citizen will be concerned and obsessed about his rights only without realizing his duty, rights of other citizens would be violated. If one keeps on performing his/her duties to the best of his/her ability, sincerity and devotion, then the rights of others would get automatically secured.

Framers of our Constitution, who were very able Statesmen and committed to bring the best piece of legislation in the form of our living Constitution, did not think it appropriate to provide fundamental duties along with fundamental rights in the Constitution, probably for the reason that fundamental duties would be inherent in the fundamental rights. However, citizens of this great country forced our Parliament to think it over again and the Parliament found it to be its compulsive necessity to introduce Part-IV(A) in the Constitution, providing fundamental duties under Article 51-A, by way of 42<sup>nd</sup> Amendment, made applicable w.e.f. 03.01.1977.

It seems that despite introducing the fundamental duties under Article 51-A of the Constitution of India, the desired object could not be achieved. Instant unwarranted litigation is a glaring and burning example in this regard. Having said that, this Court feels no hesitation to conclude that the learned Courts below were well within their jurisdiction to pass their respective impugned judgments and decrees and the same deserve to be upheld.

More restraint was expected from the appellants, as responsible citizens. However, without exercising even the bare minimum restraint, they acted in haste in telecasting the CDs Ex.P9, P12 and P13 trying to show the plaintiff in an undesirable position, for which there was no authentic, concrete and conclusive proof. It does not appeal to reason as to what was that public good, the defendants-appellants were trying to do. Learned Courts below, while recording their concurrent findings of facts, have categorically held that the plaintiff was working in his office on a holiday only with a view to do pending job. He was replying coherently and was well-oriented. He did not seem to have consumed any intoxicant, as he was tried to be painted by the defendants, while telecasting the CDs on a city channel. Plaintiff was not shown consuming liquor in the CD. He was just taking a banana. Under these circumstances, it can be safely concluded that the defendants were doing so for some extraneous considerations, by putting distorted picture before the public, so as to cause manifest prejudice to the reputation of the plaintiff.

Learned counsel for the appellants could not refer to any relevant material in this regard with a view to dispel the abovesaid impression gathered from the evidence available on record. In this view of the matter, it is unhesitatingly held that the learned Courts below were well justified in recording their concurrent findings of facts against the appellants and in favour of the plaintiff, while passing their impugned judgments and decrees, which deserve to be upheld, for this reason as well.

The abovesaid view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in **Express Newspapers**

**Pvt.Ltd. and others Versus Union of India and others, 1986(1) SCC 133**

and two judgments of this Court in **Kamaljeet Kaur and others Versus Saroj Bala, 2016 (2) Law Herald 1537** and **Surinder Kumar Versus Raj Mal Saini and another, 2016 (4) PLR 642.**

The relevant observations made by Hon'ble Supreme Court in para 77 of its judgment in **Express Newspapers's case(supra)**, which can be gainfully followed in the present case, read as under:-

*“77. I would only like to stress that the freedom of thought and expression, and the freedom of the press are not only valuable freedoms in themselves but are basic to a democratic form of Government which proceeds on the theory that problems of the Government can be solved by the free exchange of thought and by public discussion of the various issues facing the nation. It is necessary to emphasize and one must not forget that the vital importance of freedom of speech and expression involves the freedom to dissent to a free democracy like ours. Democracy relies on the freedom of the press. It is the inalienable right of everyone to comment freely upon any matter of public importance. This right is one of the pillars of individual liberty-freedom of speech, which our Court has always unfailingly guarded. I wish to add that however precious and cherished the freedom of speech is under Article 19(1)(a), this freedom is not absolute and unlimited at all times and under all circumstances but is subject to the restrictions contained in Article 19(2). That must be so because unrestricted freedom of speech and expression which includes the freedom of the press and is wholly free from restraints, amounts to uncontrolled licence which would lead to disorder and anarchy and it would be hazardous to ignore the vital importance of our social and national interest in public order and security of the State.”*

*(Emphasis supplied by this Court)*

Coming to the judgments relied upon by learned counsel for the appellants in **Life Insurance Corporation of India Versus Prof. Manubhai D.Shah, 1992 (3) SCC 637** and **R.Rajagopal @ R.R.Gopal Versus State of Tamil Nadu, 1994 (6) SCC 632**, there is no dispute about the observations made and law laid down therein. However, on a close perusal of the cited judgments, none of them has been found to be of any help to the appellants, being distinguishable on facts.

It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmasundara Rao (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**, **Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75**, **State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275** and **State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533**.

With a view to avoid repetition and also for the sake of brevity, the observations made by the Hon'ble Supreme Court in para 11 and 12 of its later judgment in **Ganeshi Lal's case** (supra), reiterating its view taken in **Amrit Lal Manchanda's case** (supra) and **Mohd. Illiyas's case** (supra), which can be gainfully followed in the present case, read as under:-

*11. "12....Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and*

*for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates; (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides. Coming to the peculiar fact situation obtaining on record of the present case, it is unhesitatingly held that learned Permanent Lok Adalat discussed, considered and appreciated each and every relevant aspect of the matter, before passing the impugned award. The only endeavour made by the learned Permanent Lok Adalat was to do*

*complete and substantial justice between the parties and this approach adopted by learned Permanent Lok Adalat has been found well justified on facts as well as in law. Ed. See State of Orissa Vs. Mohd. Illiyas, (2006) 1 SCC 275 at p.282, para 12.*

*12. 15....Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed: (All ER p. 14 C-D)*

*"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."*

*16. In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said (at All ER p.297g-h), "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in Shepherd Homes Ltd. V. Sandham (No.2) (1971) 1 WLR 1062 observed: (All ER*

*p. 1274d-e) "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said: (All ER p. 761c)*

*"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."*

*17. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*

*15. The following words of Lord Denning in the matter of applying precedents have become locus classicus: (Abdul Kayoom v. CIT, AIR 1962 SC 680*

*"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."*

*"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it Ed. See Union of India VS. Amrit Lal Manchanda, (2004) 3 SCC 75, pp. 83-84, paras 15-18."*

following the law laid down by the Hon'ble Supreme Court as well as by this Court, in the cases referred to here-in-above, it is held that the plaintiff has duly proved his case and his suit was rightly decreed by the learned trial Court. Before arriving at a judicious conclusion, learned first appellate Court re-considered and re-appreciated the facts as well as evidence available on record, in the correct perspective.

The cogent findings recorded by the learned Additional District Judge in para 15 to 18 of the impugned judgment, which deserve to be noticed here, read as under:-

*“But the material issue involved in the suit was whether there had been defamatory publication made by the defendants or not. The play of above said CD on the City Channel is an admitted fact and is also proved on record by the evidence of the plaintiff. It has been proved by the testimony of PW-1 Paramjit Singh, PW-3 Gurcharan Singh, PW-4 Rajesh Kumar, PW-8 Krishan Puri, PW-9 Gurdit Singh son of Krishan Puri that the said Krishan Puri plaintiff, a man of 50 years, is working as Clerk in the office of Municipal Council, Sangrur and at the time of testimony, he was working as Clerk in the office of Chief Medical Officer, Sangrur, for the purpose of maintaining the record of deaths and births cases. The said Krishan Puri commanded every respect in the eyes of public, relatives, friends, colleagues, senior, and employers. There has been a lot of rush of work and work is to be done by devotion by additional time even on Saturday and Sunday. The said Krishan Puri had two sons, namely, Gurdit Singh and Hardeep Puri and two daughters Jasanjot alias Simran and Veena Rani. Both the sons are students and sportsman. Both the daughters are married and maintained good respect in the society. All the defendants are jointly and severally involved in telecasting the CD on the above said*

*channel of defendant no.1. The heading was given Ayashon Ke Ayash.*

*Although the learned Counsel for the appellants has submitted that this word can not be taken as defamatory, but title given to a person in a CD so telecasted on a City Channel is certainly going to affect the reputation of a public servant in an adverse manner. It has been done by the defendants including the appellants.*

*There has not been any photograph sufficient enough to prove that Krishan Puri the plaintiff was consuming the liquor or anything, which can not be consumed by a public servant while doing the work on a public seat by giving additional time. The defendants including the appellants instead of bringing the matter to the notice of the Officer Incharge or learned District Magistrate, Sangrur, had directly telecasted the CD on the City Channel with such title, which had adversely affected the reputation of the above said plaintiff-respondent no.1. He has faced a lot of humiliation on account of above said telecast, made by the defendants including the appellants.*

*The learned counsel for the respondent no.1-plaintiff, has also brought into the notice of the Court that from the testimony of PW-5 Prabhu Dayal, PW-6 Santosh Kumar Clerk, PW-7 Pal Singh Clerk, and the CD used by the defendants-appellants, the communication is there effecting the credibility of the plaintiff. There has been a legal notice duly served to the defendants for filing the above said Civil Suit, sent by the registered post through Shri Lalit Kumar, Advocate on 23.07.2007 . In this regard, Avtar Singh Clerk of the said Counsel has been examined as PW- 2. The defendants-appellants have not been able to justify the titles used by the communication made qua the conduct of the above said Krishan Puri on the City Channel and therefore, the learned Trial Court has rightly observed that they are liable to pay an amount of Rupees*

*Four Lacs on account of defamation caused to the plaintiff coupled with interest @ 6% per annum from the date of suit till realization of the entire amount. The plaintiff has locus standi to file the above said suit and is not estopped by his act and conduct from filing the suit and the suit is not bad for non-joinder and mis-joinder of necessary parties. The defendants including the appellants have no right to telecast the above said CD on the channel and they were rightly restrained by the relief of permanent injunction from using the CD in any manner against the interest of the plaintiff. The above said observations made by the learned Trial Court are based on the true appreciation of the facts and evidence on record and are, therefore, upheld.”*

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

The concurrent findings recorded by the learned Courts below have been found based on sound reasons, which are strictly in accordance with true facts of the case and also in consonance with the relevant principles of law enunciated by the Hon'ble Supreme Court because of which no fault can be found with any of the findings recorded by the learned Courts below. In this regard, reliance can be placed on the judgments of the Hon'ble Supreme Court in **Naryanan Rajendran and another Versus Lekshmy Sarojini and others, 2009 (2) RCR (Civil) 286** and **Santosh**

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned judgments and decrees passed by the learned Courts below have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. Present appeal is wholly misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present regular second appeal stands dismissed, however, with no order as to costs.

February 22, 2017  
seema

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No