

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

125

CR No.1620 of 2018 (O & M)
Date of Decision:12.03.2018

Harish Chander and another

...Petitioners

Versus

Naresh Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravish Bansal, Advocate
for the petitioners.

Mr. Surinder Garg, Advocate
for the caveator-respondent No.1.

ANIL KSHETARPAL, J.(Oral)

This is a classic case, which shows total abuse of the process of the Court. A suit for recovery was filed on 16.08.2008. After filing written statement, defendant is alleged to have got registered an FIR against the plaintiff. Defendant was the author of the aforesaid FIR. After registration of the case, when the civil suit was pending, defendant did not take any step to amend the pleadings. It was for the first time in January 2018, the application was moved when the plaintiffs have already closed their evidence and the defendant was leading his evidence.

Learned trial Court has observed that this is one of the oldest case pending before it. The trial Court has also seen that only a First Information Report has been lodged and the same would have no bearing on the ultimate decision of the case. With these observations, learned trial Court dismissed the application.

I have heard learned counsel for the parties at length and with

Learned counsel for the petitioner has argued that no doubt, the defendant was the author of the FIR, however, at that time when evidence of the plaintiff was going on, therefore, the defendant awaited for closure of the evidence of the plaintiff before moving an application for amendment of the written statement. He has further submitted that amendment of the plaint and the written statement is to be evaluated on a totally different parameters. He submits that more liberal approach is required for allowing amendment of the written statement.

This Court has considered the argument. As per Order 6 Rule 7 of the Code of Civil Procedure, as amended, after commencement of trial, no amendment can be allowed unless the party justifies that despite due diligence, the fact was not in his knowledge or he could not plead such fact. In the present case, the application was filed after a period of more than 8 years. The First Information Report is only a complaint to the police and according to the opinion of this Court such complaint would have no bearing while deciding the main suit.

In view thereof, there is no scope for interference.

Hence, the revision petition is dismissed with cost of Rs.50,000/-.

12.03.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No