

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

**CR No.1658 of 2018 (O&M)
Date of decision : March 13, 2018**

Union Territory Chandigarh

..... Petitioner

Versus

Arun Gupta and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Toor, Standing Counsel for U.T., Chandigarh
for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CM-5152-CII-2018

Application is allowed as prayed for.

Main Case

Impugned in the present revision petition is the order dated 19.09.2017 (Annexure P-3) passed by learned Civil Judge (Jr. Divn.), Chandigarh, vide which an application filed by the State under Order VII, Rule 11(a) CPC for rejection of the plaint was dismissed.

Heard.

It comes out that the plaintiff-respondent No.1 has filed a suit for damages to the tune of ₹10,00,000/-, alleging that a false FIR was registered against him and his family members and he was falsely challaned.

Learned counsel for the petitioner-State contends that the plaint does not disclose the cause of action. Therefore, it is liable to be rejected.

It is also stated that the son of the plaintiff-respondent No.1 is a proclaimed

offender. The offences are punishable under Sections 406 and 498-A IPC. It is also stated that the trial is going on. Therefore, the suit is premature and without any cause of action.

I am of the view that the cause of action will not arise from the date of decision of the criminal trial. The cause of action arises when the plaintiff-respondent No.1 feels that some wrong has been done with him. In the suit, he is required to prove the wrong was, in fact, done and he was being maliciously prosecuted.

The trial Court has observed that the case is fixed for the cross-examination of the plaintiff and despite numerous opportunities, the cross-examination was not conducted on the one pretext or the other and thereafter, the present application was filed.

I am of the view that for the purpose of rejection of the plaint, the contents of the plaint are to be seen and not the ultimate result. From the examination of the plaint, it cannot be said that there is no cause of action. Merely because the criminal trial is pending, is no ground to reject the plaint.

As such, the present revision petition is dismissed.

Since the main petition is dismissed, therefore, the pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

March 13, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No