

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.7150 of 2017

Date of Decision.12.01.2018

Atinderpal Kaur Bedi and another

.....Petitioners

Vs

Pawan Kumar

.....Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gourav Goel, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner-defendant is aggrieved of the dismissal of the application moved under Order 7 Rule 11 CPC seeking rejection of the suit claiming following relief:-

“Suit for recovery of damages, as may be assessed by this Hon'ble Court, along with interest at the rate of 24% per annum on such damages, from 30.05.2015 till actual and final realization, on account of malicious prosecution of the plaintiff by the defendants and also on account of defamation, caused by the defendants to the plaintiff by getting lodged a false FIR No.82 dated 30.05.2015 under Sections 354/34 of IPC, Police Station Fatehgarh Sahib and by getting published a false news item in the daily Punjab Kesari Newspaper dated 1.6.2015.”

Learned counsel for the petitioner submits that at the time of filing of the suit i.e. 09.08.2016, FIR bearing No.82 dated 30.05.2015 under Sections 354/54 IPC registered with Police Station, Fatehgarh Sahib had been registered but the cancellation report was not filed. However, during

the pendency of the suit, police had filed cancellation report and therefore, no cause of action survives in favour of the plaintiff to pursue the suit claiming relief *ibid* and therefore, the trial Court ought to have allowed the application by rejecting the plaint.

I have heard learned counsel for the petitioner and appraised the paper book. A perusal of the suit reveals that it is not only for damages but defamation too. It is not discernible whether the cancellation report culminated into acceptance or not. Even in such eventuality, the plaintiff has every right to file an objection petition against the cancellation. It is an independent proceeding and cannot be clubbed into suit for recovery, claiming damages for defamation. In my view, the petitioner-defendant is at liberty to raise all possible pleas regarding the maintainability of the suit and all other points by taking up the preliminary objections and pressing issues but not in the manner and mode as indicated above.

Keeping in view the above, I do not find any illegality and perversity in the order under challenge and cannot be said to be passed exceeding its jurisdiction.

The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

January 12, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No