

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

109

**RSA-1703-2016 (O&M)
Date of Decision : 25.07.2018**

Akko Bai

..... Appellant

Versus

Bara Singh @ Darbara Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Puneet Kumar Bansal, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit for damages on account of malicious prosecution which was filed by the respondent No.1 (though the appellate court reduced the damages and held only the appellant liable to pay).

The suit of the respondent No.1 was that the appellant had maliciously charged him with having raped her and had cited the respondent No.2-proforma respondent as an eye witness. As per the respondent No.1 this false allegation had worked extreme prejudice to him because he had to undergo protracted trial and was acquitted of the same. As per the case set up, this false allegation had been made by the appellant only because there was a civil dispute between the parties. The trial court held that both the appellant and the proforma respondent No.2 were guilty of maliciously prosecuting the respondent No.1 and passed a decree of Rs.2 lakhs alongwith interest @ 9% per annum jointly and severally against them. In appeal the appellate court, as mentioned above,

reduced the amount of damages and held only the appellant liable to pay and that is why the appellant is before this Court.

Counsel for the appellant has laid great stress on the fact that the respondent No.1 was acquitted by giving him the benefit of doubt and as per him this fact alone shows that even the criminal court was not sure and thus the courts below erred in holding the appellant liable only on account of the judgment of acquittal.

In my opinion, the argument raised by the counsel is flawed. In the trial for rape, the appellant had testified that the respondent No.1 had raped her. The proforma respondent No.2 had testified that he had witnessed the occurrence. Obviously, the criminal court had not believed the appellant or her witness. In the circumstances, to lay great stress upon the fact that the respondent No.1 was acquitted by giving him benefit of doubt is neither here nor there. Once the criminal court disbelieved the direct testimony of the appellant and her eye witness, the respondent No.1 had to be acquitted and merely because the trial court held that it was by giving him benefit of doubt would not cast any cloud on the respondent No.1.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

July 25, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No