

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: November 29, 2018

1. RSA No.4534 of 2016 (O&M)

Manmohan Singh & others

...Appellants

Versus

Ved Parkash (since deceased) through L.Rs & others

...Respondents

2. RSA No.5312 of 2016 (O&M)

Manmohan Singh & others

...Appellants

Versus

Ved Parkash (since deceased) through L.Rs & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Sandeep Panwar, Advocate,
for the appellants in both the appeals.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two Regular Second Appeals bearing No.4534 and 5312 of 2016 as the common question of law and fact is involved.

The aforementioned two appeals are arising out of single decision rendered in Civil Suit No.248 of 2008 claiming damages on account of the malicious prosecution.

Plaintiffs asserted that plaintiff No.1- Manmohan Singh had retired as a Health Inspector, whereas plaintiff No.2 was a practising Advocate. Plaintiff No.3 is the wife of plaintiff No.1 and plaintiff No.4 is

his son and running an electronic shop. On 30.07.1996, defendant No.1 snatched bicycle from plaintiff No.4 due to which plaintiff No.2 went to the shop of Dharam Pal for seeking advise. Thereafter, on 31.07.1996, defendant Nos.3 and 4 inflicted injuries on the person of plaintiff No.2 Inderjeet. He was admitted in the hospital on 31.07.1996 and discharged on 05.08.1996. A DDR was also lodged, but the police did not take any action and ultimately a private complaint against defendant Nos.2 to 4 was filed on 06.08.1996 for commission of offence under Sections 323 and 506 IPC.

The defendants, as a counter-blast, lodged a false DDR giving cross version of the incident on 31.07.1996. Defendant Nos.1 and 2 produced two M.L.Rs having duration of 12 hours injuries which did not corroborate the version of 31.07.1996. The defendants, thus, lodged a counter complaint alleging occurrence on 01.08.1996. In those proceedings, the plaintiffs were discharged on 24.07.2006 by giving benefit of doubt. In such circumstances, the suit was filed in 2008.

Defendants opposed the suit and alleged that it was not a case of damages, much less malicious prosecution.

Plaintiffs in support of the aforementioned averments, examined PW-1 Manmohan Singh, PW-2 Inderjeet, PW-3 Parvinderjeet, PW-4 Rajwant Kaur, PW-5 Dr.D.C.Thukral, PW-6 Dr.B.B.Kakkar and PW-7 EASI Ravinder Kumar and brought on record documentary evidence Ex.P1 to Ex.P15, whereas the defendants examined Vijay Kumar as DW-1 and also tendered judgment dated 24.07.2006 as Ex.D6/A.

The trial court partly decreed the suit but confined the damages to ₹ 25,000/-. Two appeals were preferred. The appeal of defendants has been allowed, whereas that of the plaintiffs dismissed.

Mr. Sandeep Panwar, learned counsel appearing on behalf of the appellant-plaintiffs submitted that it was a fit case of prosecution as through the testimony of the doctors, it has been proved on record that one of the plaintiffs Inderjeet was admitted in the hospital on the date of the alleged occurrence reflected in the complaint filed by the defendants. It was a counter-blast of the complaint in respect of actual injuries suffered by Inderjeet on 31.07.1996. *De hors* of the fact that the complaint of the plaintiffs was dismissed, but the same has been adverted to through the testimony of the aforementioned witnesses, who were none else but the accused in the complaint and through the testimony of the doctor, proved the guilt. In such circumstances, the findings of fact arrived at by the trial court could not have been interfered with.

I am afraid that the aforementioned argument is not sustainable as the averments are very vague and not specific. The law on the point of awarding damages on account of malicious prosecution is no longer *res integra* in view of the ratio decidendi culled out in **West Bengal State Electricity Board Versus Dilip Kumar Ray, (2007) 14 Supreme Court Cases 568**. Para 22 of the same reads thus:-

“A bare perusal of the averments made in the plaint show that they are extremely vague, lacking in details and after the learned trial judge held that the Board alone was responsible because it was not established that any individual officer was responsible for it and dispute only have been revealed by the high-power enquiry which the court was incompetent to direct, the award for damages is clearly indefensible. The High Court’s judgment suffers from various infirmities. Firstly, it has taken a confused view of the matter. It failed to notice that the trial court itself had held "it was highly probable" that the plaintiff was suspended for extraneous reasons. This

conclusion is based on surmises and conjectures. This had not been established. As noted above, the High Court noted that the Trial Court itself held that the plaintiff was not entitled to damages for defamation. But while affirming the judgment and decree, it held that the damages granted for harassment must be read as damages for malicious prosecution causing harassment. To say the least, all the conclusions are confusing, contradictory and do not convey any sense. Looked at from any angle the impugned judgment of the High Court is indefensible and is set aside.”

Except the fact that there was a dispute with regard to the two incidents either on 31.07.1996 or 01.08.1996 and tendering of the judgment, much less the statement of the accused in the second complaint, no independent evidence has been brought on record to claim the damages. It still remained mystery whether incident is of 31.07.1996 or 01.08.1996 as the doctor in the evidence stated that injuries sustained by the defendants were 12 hours old. This would not bring the case within the parameters of expression “malicious prosecution”.

For the reasons stated above, I do not find any illegality or perversity in the findings rendered by the Lower Appellate Court. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeals are dismissed.

November 29, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No