

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

RSA No.6441 of 2017 (O&M)

Date of decision:25.04.2018

Arvind Kapur and another

... Appellants

Vs.

Sangeeta Chopra and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rahul Sharma-I, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs are aggrieved of the concurrent findings of facts and law, whereby, suit for recovery of Rs.15 lacs has been dismissed by both the Courts below.

The appellant-plaintiffs instituted a suit on 18.11.2009 on the premise that substantial amount for raising the first and second floors of house No.2174, Sector 44-C, Chandigarh was spent at the time of death of mother. The plaintiff shifted to the ground floor of said house on the same very day when his mother died. However, defendant No.1 filed a false complaint against plaintiff on 02.04.2004 under Sections 452, 357, 323, 506, 380/34 IPC. The complaint, vide order dated 14.8.2007 under Section 245 of Cr.P.C was dismissed. Even the revision petition filed before the Appellate Court was also rejected. The plaintiffs had to undergo ordeal and face false prosecution launched by the defendants which financially

wrecked due to litigation. Since the appellant-plaintiffs were dragged into litigation, cause of action arose to file the aforementioned suit.

The suit was contested by the defendants on the ground that charges were framed on the basis of allegations made in the complaint and therefore, plaintiffs were not entitled to damages.

Both the parties have brought on record extensive evidence in support of their respective pleadings. The trial Court on the basis of evidence and case law dismissed the suit and the appeal laid before the Lower Appellate Court also met with the same fate.

Mr. Rahul Sharma-I, learned counsel appearing on behalf of the appellant-plaintiffs submitted that if at all, the plaintiffs had not been able to lead an independent evidence over and above the judgments resulting into acquittal/discharge, the Court should have ordered for independent evidence. It is conceded position on record that plaintiffs were dragged into criminal litigation but the Courts below abdicated in not determining the aforementioned controversy. The criminal proceedings at the instance of the respondent-defendants had attained finality at the level of Additional District Judge which itself was a clincher for the Courts below to determine the compensation and thus, urged this Court for setting aside the judgments and decrees of both the Courts below.

I have heard the learned counsel for the appellant-plaintiffs, appraised the judgments and decrees of both the Courts below and of the view that there is no force and merit in the submissions of Mr. Sharma.

For the purpose of claiming the damages, the plaintiffs over and above the evidence vis-a-vis acquittal are required to lead an independent evidence, much less of affecting of social status. The aforementioned view of mine is derived from the ratio decidendi culled out by the Supreme Court of India in **West Bengal State Electricity Board Vs. Dilip Kumar Ray 2007 (14) Supreme Court Cases 568.**

I am afraid that the appellant-plaintiffs have failed to lead evidence with regard to aforementioned fact, i.e., loss of financial amenities.

In view of the aforementioned observations, I do not find any illegality and perversity in the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

Resultantly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

April 25, 2018
savita

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