

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

RSA No.4250 of 2016 (O&M)

Date of decision:22.05.2019

Gurcharan Singh and others

... Appellants

Vs.

Gajjan Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Harkesh Manuja, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.10973-C of 2016

For the reasons stated in the application which is duly supported by an affidavit, delay of 12 days in filing the appeal is condoned.

C.M. stands allowed.

RSA No.4250 of 2016 (O&M)

The appellant-defendants have not been successful in defending the suit for damages filed by the respondent-plaintiff in respect of an incident occurred on 15.10.2006 whereby certain injuries caused on persons.

It was alleged that the plaintiff remained admitted in the hospital for long time and in criminal case, there were about 12 defendants, few of them have been acquitted and few remained convicted and the appeal

was affirmed by the Lower Appellate Court. However, the criminal revision is stated to be pending before this Court.

The defendants raised the objection qua maintainability of the suit and denied the incident and further asserted that the matter is already sub-judice. The suit could not have been proceeded further.

Both the parties led extensive evidence.

The plaintiff in support of the pleadings examined doctor and witnesses and brought on record the medical bills to prove that he remained admitted in the hospital and undergone the various treatment and incurred expenses thereon.

Mr. Harkesh Manuja, learned counsel appearing on behalf of the appellant-defendants submitted that since few of the defendants have been acquitted, it would be very difficult to determine the decretal amount deposited in the execution application. The decision of regular second appeal may be kept in abeyance.

I have heard the learned counsel for the appellant-defendants, appraised the judgments and decrees as well as record of the Courts below and of the view that there is no force and merit in the submissions of Mr. Manuja.

As regards the recovery of amount amongst the co-defendants, the trial Court was not called upon to settle the dispute in the absence of any proof of privity amongst the co-defendants. It would be open for the appellants to take the remedy in accordance with law but fact of the matter is that respondent-plaintiff in order to sustain the claim regarding damages

had led the direct and cogent evidence. The factum of pendency of the revision petition, would not make any difference as it is a case of settlement amongst the co-defendants/co-accused.

The arguments of Mr. Manuja, Advocate have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 22, 2019
savita

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