

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

RSA No.2984 of 2018 (O&M)

Date of decision: 07.03.2019

Gopi Ram

..... Appellant

Versus

Sunder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.S. Sahu, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-7602-03-C-2018

Both the applications are allowed and the delay in filing/re-filing the appeal are condoned.

CM-7604-C-2018

Deficiency in Court fee has been made good. The delay, if any, is condoned.

Application stands disposed of.

Main Case

Defendant-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below while awarding damages by way of compensation to the tune of Rs.50,000/- along with cost of Rs.5,000/-.

There was some dispute between the parties and the defendant initially made a complaint in the Police, however, since the Police did not find merit in the complaint, he filed a criminal complaint case against the plaintiffs. In the aforesaid criminal complaint case, the Court found that the

criminal complaint is on account of ulterior motive having no substance in it. Thereafter, the plaintiffs filed this present suit claiming grant of compensation and damages to the tune of Rs.2,00,000/-. The details of the amount spent by the plaintiffs was duly given. Learned trial Court as well as First Appellate Court on appreciation of evidence have found that on account of malicious prosecution, the plaintiffs have suffered damages including the expenses to the tune of Rs.50,000/-. The Court also awarded Rs.5,000/- towards lawyer fee.

Learned counsel appearing for the appellant has submitted that merely because a criminal complaint case against the plaintiff has failed, no compensation can be awarded in favour of the accused (plaintiffs herein) on account of malicious prosecution. He submitted that there was no finding in the criminal case that such case was initiated maliciously.

This Court has considered the submission. As noticed above, the Court while dealing with the criminal case found that the criminal prosecution has been launched with ulterior motive. Still further, the Court has only awarded Rs.50,000/- which account for the amount spent by the plaintiffs. Still further, once the defendant-appellant made a complaint in the Police and once, the Police did not find any ground to proceed with the complaint as no cognizable offence was found to have been committed, the defendant should have been vigilant in launching a false prosecution thereafter.

In view thereof, there is no ground to interfere.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

07.03.2019

Dinesh Bansal

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No