

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

RSA No. 174 of 2021 (O&M)

Date of Decision: September 27, 2021

Mangal Dass (since deceased) through his LRs. Appellant(s)

Versus

State of Punjab Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Bharat Julka, Advocate
for the appellant.

LISA GILL, J.

Appellant-defendant has preferred this appeal challenging judgment and decree dated 18.11.2019, passed by learned Additional District Judge, Bathinda, whereby judgment and decree dated 01.05.2018, passed by the learned Civil Judge (Senior Division), Bathinda, has been set aside.

Brief facts necessary for adjudication of the case are that plaintiff/respondent filed a suit for recovery of Rs.50,000/- along with interest @ 12% per annum. It is pleaded that amount of Rs.50,000/- was received by defendant from plaintiff being the incentive amount for facilitating nabbing of corrupt government officials. It is pleaded that in the year 1997 plaintiff i.e. the State of Punjab floated a Scheme for payment of incentive to person(s) who report and facilitate nabbing of corrupt government officials by vigilance department. If said officer was a Class-II Officer or below, then complainant/informant was entitled to incentive of

Rs.25,000/- and if the nabbed corrupt official belonged to Class-I category then complainant/informant was entitled to incentive of Rs.50,000/-. It is pleaded that defendant lodged a complaint before officials of Vigilance Bureau, Bathinda against Dr. Surinder Kumar Singh, Assistant Director, Animal Husbandry, Bathinda, regarding demand of Rs.800/- as illegal gratification for his transfer. Said Dr Surinder Kumar Singh was caught red handed while accepting illegal gratification of Rs.800/- from the defendant/complainant – Mangal Singh and was arrested by vigilance officials. FIR No. 25 dated 13.05.1997 under Section 7.13(2) 88 of PC Act was registered against him at Police Station Vigilance Bureau, Ferozepur Range, Ferozepur, on the statement of defendant – Mangal Dass. Cash incentive of Rs.50,000/- in terms of the Scheme was paid to defendant Mangal Dass vide bank draft no.333190 dated 07.04.1998, against proper receipt. Challan was presented against Dr. Surinder Kumar Singh and trial commenced. However, during the course of trial defendant – Mangal Dass, it is averred, resiled from his statement recorded before the police authorities. As a result thereof, Dr. Surinder Kumar Singh was acquitted by the Court from the charges framed against him, vide judgment dated 03.10.2001. Under orders of Chief Director, Vigilance Bureau, Punjab, Chandigarh, FIR No. 10 dated 28.02.2002 under Section 420 IPC was registered against the defendant. He was however acquitted therein on 16.7.2008.

Under these circumstances, defendant it is claimed was liable to repay Rs.50,000/- to the plaintiff, which was received by him as cash incentive. It is further pleaded that demand notice no. 558 dated 28.03.2014

was served upon the defendant but he failed to repay the same nor any reply to the demand notice was submitted by him. Hence, the suit was filed.

Defendant/present appellant contested the suit while taking preliminary objections of the suit being barred by limitation, estoppel and concealment of facts in the written statement. Replication was not filed. During pendency of the trial, Mangal Dass died and his legal heirs were impleaded.

Following issues were framed by the learned trial Court on the basis of the pleadings:-

- i. Whether plaintiff is entitled to recovery of Rs.50,000/- alongwith interest as prayed for? OPP.
- ii. Whether the suit is barred by limitation? OPD.
- iii. Whether the plaintiff is estopped from filing the suit by his own act and conduct? OPD
- iv. Whether the plaintiff has concealed the true and material facts from the Court? OPD
- v. Relief.

Evidence was led by both the parties in support of their respective claims/stands.

Learned trial Court on considering the evidence on record, facts and circumstances of the case decided issue no.1 in favour of the plaintiff and held that the plaintiff is entitled to recovery of Rs.50,000/- alongwith interest as prayed for. However, suit was dismissed on the ground that plaintiff's claim was time barred. It is observed by the learned trial Court that accused – Dr. Surinder Kumar Singh was acquitted on 03.10.2001, therefore, cause of action to claim the amount of Rs.50,000/- arose in favour of the plaintiff-State from that day but plaintiff did not file the suit within three years and that subsequent notice dated 28.03.2014 cannot extend the

period of limitation. Civil suit having been filed on 28.04.2015, was held to be time barred.

Appeal filed by the State of Punjab was allowed by the learned Additional District Judge, Bathinda, vide impugned judgment and decree dated 18.11.2019, while specifically observing that period of limitation for suit for recovery by the State Government is 30 years and not 03 years. Aggrieved therefrom this regular second appeal has been filed.

Learned counsel for the appellant submits that learned Additional District Judge, Bathinda has wrongly reversed finding of the learned trial Court. Mangal Dass i.e. the original defendant has since passed away and is now represented by his legal representatives i.e. the widow and children. Dr. Surinder Kumar Singh was acquitted way back on 03.10.2001 but the suit was filed after colossal delay in the year 2015 without any explanation, leave alone a reasonable one. Moreover, Mangal Dass was acquitted in the FIR under Section 420 IPC on 16.07.2008. It is, therefore, prayed that this appeal be allowed.

I have heard learned counsel for the appellant and have gone through the file.

Learned trial Court has returned conclusive finding that the respondent-State is entitled to recover the amount of Rs.50,000/- received as cash incentive by Mangal Dass. It is a matter of record that Dr. Surinder Kumar Singh was acquitted as the defendant/complainant - Mangal Dass had turned hostile. Therefore, the plaintiff - State was held entitled to recover the cash incentive of Rs.50,000/- with interest. Plaintiff had not challenged the said finding and at this stage also is unable to point out any infirmity in the

said finding. Arguments have primarily been addressed on the question of limitation. At this stage it is useful to refer to Article 112 of the Limitation Act, which reads as under:-

“Period of limitation, in any suit (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any State Government, including the Government of the State of Jammu and Kashmir, is 30 years.”

Dr. Surinder Kumar Singh was acquitted on 03.10.2001. Notice was issued to Mangal Dass on 28.03.2014 and the suit was filed on 28.04.2015. Learned Additional District Judge, Bathinda in the factual matrix of the case has rightly held that the suit filed by the respondent-State was well within limitation. Keeping in view the facts and circumstances of the case, learned Additional District Judge, Bathinda has correctly placed reliance upon the Division Bench Judgments of this High Court in Gurdeep Kaur Vs. Union of India, 1993, RRR 407, Minakshi Thapar Vs. Union of India, 2013(1) RCR (Civil) 787 and Vipin Kumar Jain Vs. BSNL and another, RSA-3829-2009, decided on 08.01.2014.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in impugned judgment and decree dated 18.11.2019, passed by learned Additional District Judge, Bathinda, which calls for any interference by this Court in regular second appeal. In my considered opinion, no question of law, much less a substantial question of law arises for adjudication in this appeal.

No other argument has been raised.

Appeal is accordingly dismissed with no order as to costs.

There is a delay of 30 days in filing of this appeal. As the same has been adjudicated upon on merits, decision on the application for condonation of delay is rendered academic. Application is disposed of accordingly.

Pending applications if any stand/s disposed of accordingly.

September 27, 2021
Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No