

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

118

CR-3437-2021 (O&M)

Date of decision: 21.12.2021

MANISHA AHUJA

..Petitioner

Versus

JASWINDER SINGH AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Petitioner in person.

ANIL KSHETARPAL, J (Oral)

The petitioner is a defendant in a suit for damages on account of malicious prosecution against the plaintiffs. An application filed by the petitioner under Order 7 Rule 11 CPC, has been dismissed by the trial Court. The petitioner assails its correctness by filing a revision petition under Article 227 of the Constitution of India.

The defendant seeks rejection of the plaint on the following two grounds:-

1. The plaintiffs have failed to pay the sufficient Court fee.
2. The plaintiffs have not disclosed any cause of action.

The learned trial Court on the basis of facts available has held that the question of payment of appropriate Court fee can be decided with the decision of the suit and the plaintiffs can always be called upon to make up for the deficiency. As regards the cause of action, the trial Court has held that the plaintiffs have pleaded the cause of action.

The petitioner contends that she has only filed an application under Section 319 Cr.P.C. and therefore, the suit for damages was not

maintainable. She further contends that the plaintiffs have failed to pay sufficient Court fee.

As regards the cause of action, the plaintiffs have asserted as under:-

“The cause of action to file the present suit arose to the plaintiffs on 02.08.2019 when the false revision filed by the defendant against the plaintiffs was dismissed and the inquiry conducted and the relevant authority found the plaintiff innocent and on account of false and malicious prosecution by the defendant, cause of action is continuing one. Hence, this suit.”

Therefore, the plaintiffs have already disclosed the cause of action to file the suit.

As regards the objection with regard to Court fee, the revision petition is not maintainable in view of the judgment passed by the Hon'ble Supreme Court in **Sri Rathnavarmaraja vs. Smt. Vimla, 1961 AIR (Supreme Court) 1299.**

As regards the argument of the petitioner that the suit does not have merits, this matter can be examined by the Court after the parties are permitted to lead evidence.

Hence, no ground to interfere in the impugned order is made out.

Dismissed.

All the pending miscellaneous application(s), if any, are also disposed of.

21.12.2021

ashok

(ANIL KSHETARPAL)

JUDGE