

RSA-1969-2017 (O&M)

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

RSA-1969-2017 (O&M)

Reserved on : December 07, 2022

Pronounced on : December 12, 2022

Kulwant Singh and others

... Appellants

Versus

Paramjit Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Deepak Aggarwal, Advocate for the appellants.

Mr. A.K. Khunger, Advocate for the respondents.

DEEPAK GUPTA, J.

Civil Suit No.104 of 2012 (CS 512/2013) filed by plaintiff-Paramjit Kaur (now respondent No.1) seeking damages/compensation to the tune of ₹10,00,000/- was decreed by learned Trial Court vide judgment dated 26.02.2016. Appeal bearing CA No.96 of 2016 filed by the defendants, has been dismissed by the First Appellate Court on 03.11.2016. Defendants are in this appeal against concurrent findings.

2. In order to avoid confusion, parties shall be referred as per their status before the Courts below.

3. The relevant facts for the disposal of this appeal are that plaintiff got registered FIR No.63, dated 31.03.2004 under Sections 366/376 (2) (G) of the Indian Penal Code, at Police Station Sadar, Malaut against the defendants. Defendants Kulwant Singh and Paramjit Singh were found innocent and placed in column No.2 of the report under Section 173 Cr.P.C. However, the challan was presented against plaintiff

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No.3-Jagtar Singh (now appellant No.3) and plaintiff No.4-Paramjit Singh (now proforma respondent). Both of them were convicted vide judgment dated 30.11.2011 by the then learned Additional Sessions Judge, Mukatsar Sahib. The appeal preferred by them is pending before this High Court. After the conviction recorded by the Sessions Court, plaintiffs filed present suit for recovery of ₹10,00,000/- seeking damages and compensation.

4. The only point urged before this Court by learned counsel for the appellants-defendants is that the suit was barred by limitation, inasmuch as that the crime had taken place in the year 2004 and so, suit filed in 2012 was beyond limitation.

5. Refuting the aforesaid contention, it is urged by learned counsel for the respondents-plaintiffs that cause of action was continuing and so, period of limitation shall start from the date of conviction and so, learned Courts below have rightly held the suit to be within limitation and have correctly decreed the suit.

6. After considering submissions of both the sides, I find merit in this appeal.

7. There can be no dispute to the legal proposition that rape of a woman is an offence, which is violative of fundamental right. It is an offence against society. Such a rape victim can maintain a suit claiming damages. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court of India in case of ***“The Chairman, Railway Board vs Chandrima Das (Mrs.)”*** reported as 2000(1) R.C.R. (Criminal) 803.

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8. However, any such suit seeking damages is to be brought within the period allowed by the law and time begins to run from the date of crime. Article 72 of part VII in the Schedule of the Limitation Act, 1963 pertains to suit relating to tort and it states that the suit is to be filed within one year from the date, when act or omission took place with regard to compensation for doing wrong.

9. Cause of action for compensation accrues from the date of incident. Initiation of criminal proceedings or the pendency thereof does not stop the limitation for filing a civil suit to claim compensation. No exclusion of limitation period is possible under the Limitation Act to exclude the period taken to conclusion of criminal proceedings. Similar view has been taken in ***“T.A. Krishnan vs Chithran & Others”*** reported as 2005(4) R.C.R. (Criminal) 64 by the Kerala High Court

10. In ***“P.V. Raghunandan vs Registrar General”*** reported as 2008(21) R.C.R. (Civil) 13, it has been held by the Delhi High Court that limitation for filing a suit for damages is one year and the starting point of limitation is to be reckoned from the date of incident. In ***“Mohinder Singh vs Hakim Singh and others”*** reported as 2016(3) PLR 566, suit for compensation/ damages for suffering injuries and permanent disablement for criminal trespass and causing annoyance and harming the reputation of the plaintiff by defendant was dismissed as barred by limitation. In the regular second appeal, a co-ordinate Bench of this Court has held that cause of action accrued on 11.09.2000 when respondents/ defendants caused injuries to plaintiff. Suit had been filed on 23.10.2001 i.e. more than one year after accrual of cause of action. It was held that

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delay in filing the suit cannot be condoned even under Section 5 of the Limitation Act.

11. In the present case, crime took place on 04.01.2004, whereas suit for seeking damages was filed on 08.06.2012. It is clear that said suit was filed much beyond by limitation as allowed by law. The period of limitation runs from the date of crime and not from the date of conviction by the criminal court.

12. In view of the aforesaid discussion, it is held that both the Courts below fell in error by ignoring the point of limitation and decreeing the suit. Both the impugned judgments are hereby set aside. The present appeal is accepted. Suit of the respondent-plaintiff is dismissed.

December 12, 2022

sarita

(DEEPAK GUPTA)
JUDGE

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