IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.107

Case No. : RSA No.5902 of 2019 (O&M)

Date of Decision : July 27, 2023

Om Parkash .... Appellant

vs.

Deen Dayal (deceased through his LRs) and another .... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Mukesh Yadav, Advocate
for the appellant.

* * *

GURBIR SINGH, J. :

1. **CM No.16863-C of 2019** **:** This is application under Section 5 of the Limitation Act, 1963 for condonation of delay of 01 day in filing the present appeal. For the reasons mentioned in the application, the same is allowed and delay of 01 day in filing the present appeal is condoned. The application stands disposed of.

2. **CM No.16862-C of 2019** **:** This is application under Section 151 CPC for condonation of delay of 787 days in re-filing the present appeal. For the reasons mentioned in the application, the same is allowed and delay of 787 days in re-filing the present appeal is condoned. The application stands disposed of.

3. **Main Appeal** **:** This is Regular Second Appeal preferred against the judgment and decree dated 15.12.2015, passed by learned Civil

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Judge (Junior Division), Narnaul, whereby suit filed by the plaintiff-appellant (hereinafter referred to as – the plaintiff) has been dismissed and also against the judgment and decree dated 03.11.2016, passed by learned District Judge, Narnaul, whereby appeal filed by the plaintiff against the judgment and decree dated 15.12.2015, has been dismissed.

4. Briefly, the facts of the case are that the plaintiff filed suit against the respondents-defendants (hereinafter referred to as – the defendants) seeking damages/compensation of Rs.50,000/-, inter alia on the ground that they had filed false applications dated 03.05.1995 and 08.05.1995 against the plaintiff alleging therein that he had kept detained his divorced wife Rajbala in illegal custody and killed her. On their complaint, DDR was lodged. Plaintiff and his family members were humiliated. Later on, during investigation, police recorded statement of Rajbala on 11.05.1995 that she was residing with her uncle and maternal grandfather as per her wish. So, the complaint filed against the plaintiff was found false. Police released the plaintiff. Thereafter, plaintiff filed complaint under Sections 182, 211 and 500 IPC against the defendants. Despite cogent evidence against them, they were acquitted. The plaintiff filed appeal, which was also dismissed. Thereafter, the plaintiff filed Criminal Revision before this Court. The same was dismissed on technical grounds. The plaintiff then filed SLP before Hon'ble Supreme Court, which was dismissed in limine on 22.01.2010. Thus, the plaintiff was compelled to fight a long legal battle, for which he had to engage various Advocates and to pay Rs.45,000/- as fee of Advocates and Rs.5,000/- for collecting various documents. Plaintiff

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claimed that he was entitled to get compensation along with interest thereon from the defendants.

5. The learned Trial Court dismissed the suit. Appeal filed by the plaintiff was also dismissed. This appeal has been filed against the concurrent finding recorded by both the Courts below. The suit for damages was based on the basis of malicious prosecution and illegal detention for 30 days. As per pleadings of the plaintiff, false DDR was recorded against him in the year 1995 regarding illegal detention of Rajbala and killing her. Later on, she made statement on 11.05.1995 that she was residing with her uncle and maternal grandfather with her own sweet will. Thus, the said complaint was found false.

6. The instant suit was filed in the year 2013. The suit for recovery or damages can be filed within three years after the accrual of cause of action. The cause of action accrued to the petitioner/plaintiff when he was released by the defendants/respondents i.e. in the month of May 1995. The suit is certainly barred by limitation qua this relief.

7. Regarding other reliefs, the plaintiff is claiming fee paid to the lawyers for prosecuting defendants in a complaint case filed by him under Sections 182, 211 and 500 IPC. The said complaint was dismissed up to Hon'ble Apex Court. Both the Courts below have held that version of the plaintiff was found to be false. Once the plaintiff failed to prove his case, then there was no question of granting any compensation. There is no ground to interfere in the concurrent finding recorded by both the Courts below.

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8. In view of the aforesaid, I find no merit in the instant second appeal. No question of law, much less substantial question of law, arises for determination in the instant second appeal. The appeal is without any merit and is accordingly dismissed in limine.

9. Pending applications, if any, shall stand disposed of along with this judgment.

July 27, 2023 **(GURBIR SINGH)**
monika **JUDGE**

Whether speaking/reasoned ?	*Yes/No.*
Whether reportable ?	*Yes/No.*

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