

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

**RSA-3552 of 2019 (O&M)
Date of Order: 05.07.2023**

Paramjit Singh Nambardar**.Appellant****Versus****Jagtar Singh****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Anil Kumar Garg, Advocate
for the appellant.**

ANIL KSHETARPAL, J

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh, is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in **Pankajakshi (Dead) through LRs vs. Chandrika and others, (2016) 6 SCC 157.**

2. This regular second appeal has been filed by the plaintiff to assail the correctness of the concurrent judgments passed by the courts below while dismissing his suit for recovery of damages of Rs.7,00,000/- for malicious prosecution. It is claimed by the plaintiff that a false criminal complaint No.32, dated 24.05.2006 was filed by the defendant against the appellant which was withdrawn on 24.04.2015 and hence he was acquitted. He further submits that even in a civil suit the defendant lost vide judgment dated 07.08.2012.

3. Both the courts on appreciation of evidence have found that the plaintiff has failed to prove at the first instance that the complaint was the result of a malicious prosecution. The courts have also held that the

plaintiff has also failed to prove that he suffered any damages.

4. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the judgments passed by the courts below as well as the paper book.

5. The learned counsel representing the appellant contends that the conclusion drawn by the First Appellate Court to the effect that the appellant was present when the complaint was withdrawn and hence the same was his tacit consent is erroneous because once the complainant withdraws the complaint, the accused (respondent) cannot object to its withdrawal. He submits that the observations made by the First Appellate Court to this effect are without any basis. He further submits that the revision filed by all the four accused was withdrawn on the statement of other accused and not the appellant.

6. It is evident that initially a lease deed was executed by the defendant-Jagtar Singh. The appellant herein was a witness to the aforesaid lease deed. Subsequently, Sh. Jagtar Singh claimed that Sh. Charanjit Singh in connivance with Mr. Paramjit Singh (appellant herein) has hatched a conspiracy which resulted in procuring the lease deed. It was in that context the previous litigation started. Subsequently, Sh. Charanjit Singh and Sh. Jagtar Singh entered into a settlement which resulted into the decision of the civil suit as well as a criminal case.. On the basis of the aforesaid facts, both the courts have drawn an inference that there was settlement between the parties.

7. Undoubtedly, the appellant herein was not a party to the aforesaid settlement, however, the settlement between the contesting parties

resulted in the withdrawal of the criminal complaint as well as the settlement of the civil suit.

8. Moreover, despite repeated requests, the learned counsel representing the appellant failed to draw the attention of the court to any evidence led to prove that the appellant suffered any damages on account of the previous litigation. It is evident that only the plaintiff appeared in evidence. His statement has not been corroborated by any other evidence. The scope of interference in the Regular Second Appeal is limited.

9. Keeping in view the aforesaid facts, this court does not find it appropriate to interfere.

10. Dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

July 05, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO