

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2991-2023 (O&M)

Date of Decision: 15.05.2023

Baldev Singh

....Petitioner

Versus

Jassa Singh Mann

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Navjot Singh Wahniwal, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 15.04.2023 (Annexure P-1) passed by Ld. Additional Civil Judge (Sr. Divn.), Moga, whereby the application filed by petitioner/plaintiff for leading additional evidence, was dismissed.

2. The revision petition is premised on the averments that petitioner/plaintiff filed a suit for recovery of Rs.35,000/- along with interest @ 12% per annum from the date of filing of suit till realization and for recovery of Rs.1 lakh as compensation on account of damaging the reputation of plaintiff by getting videos of plaintiff viral and making unparliamentary comments against the plaintiff on various social media platforms and for mandatory injunction directing defendant for deleting all the posts put by him regarding the plaintiff on various social media platforms.

2.1. Upon notice, respondent/defendant filed a written statement. Upon completion of pleadings, issues were framed and both the parties led their respective evidence.

2.2. Petitioner/plaintiff filed an application to examine witnesses by way of additional evidence i.e., concerned Clerk, Cyber Crime Unit, Office of Sr. Superintendent of Police, Moga along with file bearing Complaint No.24CC dated 02.08.2021 and concerned Clerk, Facebook Office, Gurgaon, DLF Horizon Building, Sector 43, Gurugram along with record of profile of Facebook ID, from which, the video of petitioner/plaintiff had been uploaded.

2.3. Respondent/defendant contested the application by filing reply.

2.4. Upon consideration, the Ld. Trial Court dismissed the application filed by petitioner/plaintiff by way of impugned order.

3. Learned counsel for petitioner/plaintiff would argue that Ld. Trial Court has erred in not appreciating the fact that additional evidence sought to be led by plaintiff is of very vital importance to prove the acts of defendant as the plaintiff had moved an application before the police authority with regard to the acts of defendant on social media platform and the defendant has duly admitted about his acts in the police investigation as well.

4. I have heard learned counsel for petitioner and gone through the record.

5. Impugned order dated 15.04.2023 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Divn.), Moga, is premised, *inter alia*, on the following reasoning:

“xxxx xxxx xxxx xxxx

I have heard the learned counsel for the parties and have perused the case file carefully. There is no merit to allow the present application as it lacks bonafide and due diligence. The present application is filed at the stage of rebuttal evidence and arguments. The plaintiff wants to

examine concerned clerk of SSP office to prove some documents. After perusing the file, it is evident that in affirmative evidence, plaintiff has already availed opportunity to summon that witness and failed to examine the said witness. It is well settled law that application for additional evidence can be allowed only after if special circumstances are shown by the party why he could not lead this evidence earlier. So, such application cannot be allowed in a casual manner and relevancy of evidence is required to be seen. There is no due diligence on the part of the plaintiff for not producing said evidence earlier. Accordingly, application in hand is not bonafide and same is hereby dismissed.

Now, case is adjourned to 18.04.2023 for rebuttal evidence of plaintiff if any otherwise for arguments.”

6. I am inclined to agree with the view taken by learned Trial Court. There is no room for interference in the aforesaid valid reasons recorded by Ld. Court as the petitioner has already availed sufficient opportunities to summon those witnesses. I see no grounds to interfere.
7. Dismissed.
8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 15, 2023
ashish

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