

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

CR-5027-2022 (O&M)

Date of decision: 01.05.2023

Sabar Mohd.

...Petitioner

Versus

Mohd. Iqbal and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. KB Raheja, Advocate for the petitioner.

Mr. J.S. Grewal, Advocate for respondent No.1.

H.S. MADAAN, J.

1. Briefly stated facts of the case are that plaintiff Mohd. Iqbal had brought a suit against defendants Mohd. Yaqoob and two others seeking recovery of Rs.10 lacs as damages on account of levelling false allegations and for malicious prosecution etc.

2. On getting notice, the defendants had appeared and filed an application under Order 7 Rule 11 CPC for rejection of the plaint for the reason of being insufficiently stamped contending that the plaintiff had affixed Court fee of Rs.50/- only on the plaint instead of affixing ad-valorem Court fee on the value of damages claimed in the suit, therefore, the plaint deserves to be rejected.

3. The application was resisted on behalf of the plaintiff. However, the prayer was declined by the trial Court, vide impugned

order leaving the defendant Sabar Mohd. aggrieved and he has filed the present revision petition, notice of which was given to respondent No.1/plaintiff who has put in appearance through counsel.

4. I have heard learned counsel for the parties besides going through the record and I find that the impugned order is not sustainable under law. The plaintiff himself having claimed a definite and certain amount in the suit as damages, he is liable to affix ad-valorem Court fee on such amount. Things would have been different if the plaintiff had filed a suit for recovery of damages leaving it to the Court to determine the same and not asking for a definite amount to be granted to him.

5. Counsel for the petitioner/defendant has referred to judgment **State of Punjab & Ors. Vs. Dev Brat Sharma, 2022 (2) RCR (Civil) 464** by the Supreme Court wherein it was observed that in a suit for recovery as damages ad valorem Court fee would be payable on the amount of damages claimed. He has further referred to judgment by a Co-ordinate Bench of this Court in case **Kushalpal Singh & Ors. Vs. Fortis Healthcare Ltd. & Ors.**, in CR-5931-2019 decided on 05.03.2020.

6. Under the circumstances, the impugned order cannot stand judicial scrutiny; the same is hereby set aside with a direction to the trial Court to direct the plaintiff to affix ad valorem Court fee on the amount of damages claimed in the suit within a reasonable time to be afforded by such trial Court and in case the plaintiff fails to do the

same, then rejecting the plaint in terms of Order 7 Rule 11 CPC as per prayer made in the application so filed by the defendants.

The revision petition is allowed accordingly.

01.05.2023

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No