

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

RSA-2790-2018

Date of Decision: August 18, 2023

KALADHARI AND ORS

..... Appellants

Versus

BALBIR SINGH

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. J.P. Sharma, Advocate for the appellants.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to judgments and decrees dated 22.01.2015 and 31.10.2017 passed by the Courts below whereby a suit for recovery of damages claimed by the appellants-plaintiff alleging their false implication in FIR No.184 dated 29.07.2007 registered at the instance of respondent-defendant has been dismissed.

2. Briefly stating, on account of their implication as accused in FIR No.184 dated 29.07.2007 registered under Sections 147, 149, 436 and 506 IPC, P.S. Nissing, Karnal at the instance of respondent-defendant, the appellants-plaintiffs were arrested on 29.07.2007 and remained in custody between July and August 2007 and thus could not sow paddy crops in their fields thereby causing loss to them. It has also been pleaded that vide judgment dated 22.07.2009, the appellants were acquitted of the charges framed against them by the Court of Addl. Session Judge, Fast Track Court, Karnal in the aforementioned FIR. It has been further submitted that respondent-defendant even gave an affidavit dated 03.08.2007 stating that the appellants-plaintiffs were

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never involved in the incident dated 28/29.07.2007 and thus alleging their false implication, a suit for recovery of damages was filed.

3. Upon notice, respondent-defendant appeared and contested the suit while submitting that FIR was correctly got registered at his instance and after thorough investigation, the appellants-plaintiffs were challaned and were sent to face trial. It was also submitted that based on the affidavit dated 03.08.2007, the appellants-plaintiff even filed petition under Section 482 of CrPC bearing No.CRM-M-50175-2007 seeking quashing of FIR, which was declined doubting the veracity of the settlement arrived at between the parties.

4. The trial Court vide judgment and decree dated 22.01.2015 partly allowed the suit filed by the appellants-plaintiff by granting decree for recovery of Rs.2,00,000/- with interest as damages on account of malicious prosecution. Two separate appeals were filed against the judgment and decree passed by trial Court, learned First Appellate Court vide judgment and decree dated 31.10.2017 allowed the, appeal filed by respondent-defendant; whereas the First Appeal filed at the instance of appellants-plaintiffs was dismissed.

5. Impugning the aforementioned judgment and decree dated 31.10.2017 passed by First Appellate Court, learned counsel for appellants submits that in the wake of the affidavit dated 03.08.2007 submitted by the respondent-defendant, wherein he categorically stated that the appellants-plaintiffs were not involved in the incident dated 29.07.2007, nothing more was required to be established as regards their false implication in the FIR. He further submits that even the

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Criminal Court in the trial, vide its decision dated 22.07.2009 acquitted them of the charges regarding the aforementioned incident.

6. I have heard learned counsel for the appellants and gone through the paper-book. I am unable to find substance in the submissions made by learned counsel for the appellants.

7. In the present case, though affidavit dated 03.08.2007 was admittedly signed by respondent-defendant in terms of some settlement arrived at between the parties with the intervention of elders and respectable of the village, however, the said settlement was never even approved or acknowledged by this Court in the proceedings initiated at the instance of appellants-plaintiffs wherein they sought quashing of FIR in question and was not relied upon being doubtful. Moreover, the decision dated 22.07.2009 whereby the appellants-plaintiffs were acquitted of the charges may also not come to their rescue as the acquittal was based on benefit of doubt and no clear-cut findings about their false implication were recorded in their favour. Nonetheless, the appellants-plaintiffs, in the present suit were not able to prove or establish their false implication in FIR No. 184 dated 29.07.2007 registered at Police Station, Nissing, Karnal through any other independent evidence, besides, proving any loss to them.

8. Thus, in view of the discussions made hereinabove, finding no merit in the present appeal, besides there being no illegality or perversity in the judgment and decree dated 31.10.2017 passed by the First Appellate Court below, the present appeal is hereby dismissed.

18.08.2023
tejwinder

(HARKESH MANUJA)
JUDGE

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

