

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

CR No.873 of 2024

Date of Decision: 20.02.2024

Mohammab Rafiq and others

.....Revisionists-Petitioners.

Versus

Sajia and others

.....Respondents.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Mandeep Kumar Dhot, Advocate
 for the revisionists-petitioners.

MEENAKSHI I. MEHTA, J. (Oral)

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioners-plaintiffs (here-in-after to be referred as 'the plaintiffs') have laid challenge to the order (Annexure P-3) passed by learned Civil Judge (Jr. Division) Malerkotla (for short 'the trial Court') on 09.01.2024 in *Civil Suit No.39 of 2023* titled as '*Mohammad Rafiq & others Vs. Sajia & others*', whereby application Annexure P-1, moved by the respondents-defendants (here-in-after to be referred as 'the defendants') under Order 7 Rule 11 CPC for seeking the rejection of the plaint on the ground of non-affixation of the *ad-valorem* Court-fee thereon, has been allowed and they (plaintiffs) have been directed to pay/affix the same up to 15.03.2024.

2. I have heard learned counsel for the petitioners-plaintiffs in the present revision-petition, at the preliminary stage and have also perused the file carefully.

3. Learned counsel for the plaintiffs contends that the plaintiffs have filed the above-referred Civil Suit for the recovery of Rs.10 (ten) lac from the defendants as the tentative amount of compensation/damages for their (plaintiffs') malicious prosecution and hence, they are not required to pay/affix *ad-valorem* Court-fee on the plaint on the basis of the afore-claimed amount and in these circumstances, it becomes explicit that the impugned order is not legally sustainable and therefore, it deserves to be set-aside. To buttress his contention, he places reliance upon the judgment rendered by the Co-ordinate Bench in **Raj Kumar & another Vs. Tarsem Raj Goyal & others, (2022) Law Today Live Doc. Id. 17064.**

4. However, the above-raised contention does not cut much ice with this Court because though the plaintiffs have not annexed the copy of their plaint along-with the instant revision-petition but however, in para No.5 therein, they (plaintiffs) have specifically quoted the relief claimed by them in the afore-mentioned Civil Suit, i.e recovery of the sum of Rs.10 lac as tentative amount of damages/compensation. This fact makes it crystal clear that they have quantified the damages/compensation, as sought to be recovered from the defendants and it being so, mere use of the word 'tentative' while mentioning the above-claimed amount, would not suffice at all to take the Suit out of the purview of Section 7(i) of the Court Fees Act, 1870 which provides for the computation of the Court-fee in the

money suits, including the suits for damages/compensation, according to the amount claimed as it is well-settled that by way of clever drafting of the pleadings, the plaintiff(s) cannot circumvent/evade the payment/affixation of the requisite Court-fee on the plaint. Rather, the present case is squarely covered by the observations as made by Hon'ble Supreme Court in **State of Punjab Vs. Jagdip Singh Chowhan & others, Civil Appeal No.3987 of 2006, (decided on 29.05.2012)** to the effect that "*there can be no dispute that in a suit for malicious prosecution, ad-valorem Court-fee is payable*" and also in **State of Punjab & others Vs. Dev Brat Sharma, 2022(2) R.C.R (Civil) 464** to the effect that "*in a suit where the amount of damages is claimed, the ad-valorem Court fees would be payable on the amount claimed*". In view of the afore-discussed observations, the verdict handed down by the Co-ordinate Bench in **Raj Kumar & another (supra)**, would be of no help to the plaintiffs.

5. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

February 20, 2024

Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes