



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123
CR-3769-2024
Date of Decision.:09.07.2024

Om Parkash and another
Vs.
Rajat and others
.....Petitioners
.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vishal Pundir, Advocate
for the petitioners.

DEEPAK GUPTA, J. (ORAL)

By way of this petition filed under Article 227 of the Constitution of India, petitioners pray to set aside order dated 04.05.2024 (Annexure P-13) passed by learned Civil Judge (Junior Division), Karnal, whereby applications under Order 1 Rule 10(2) CPC moved by respondent Nos.1, 6 to 12 to strike out their names from the array of the defendants, in civil suit bearing No.CS-917-2019 titled ‘Om Parkash v. Rajat etc.’, was allowed.

2. Respondent No.2 Sonia was married to Rajinder Singh, the son of the petitioners. Said Sonia lodged FIR No.667 dated 09.12.2023 under Sections 406 & 498-A IPC at Police Station Mani Majra, Chandigarh, in which her husband Rajinder Singh and parents-in-law i.e. present petitioners were sought to be prosecuted. Rajinder Singh was declared proclaimed

**CR-3769-2024****-2-**

offender, whereas the petitioners i.e. father-in-law and mother-in-law of respondent No.2- Sonia were acquitted vide judgment dated 27.04.2018 (Annexure P-1). Thereafter, petitioners filed a civil suit seeking recovery of un-liquidated damages (copy Annexure P-6) against as many as 12 defendants who include their daughter-in-law Sonia as well as various witnesses who had deposed against the petitioners in the criminal case.

3. During the pendency of that suit, applications under Order 1 Rule 10(2) CPC were moved by defendant Nos.1, 6 to 9 and 12; and separate application to delete the name of defendant Nos.10 & 11 from the array of defendants, which has been allowed by way of impugned order.

4. Assailing the aforesaid order, it is contended by learned counsel that false testimonies were made by defendant Nos.2 & 6 to 12 during the criminal prosecution and they sought to prove the forged bills. All of them had hatched a conspiracy against the plaintiffs and therefore, they were rightly impleaded as defendants for recovery of un-liquidated damages.

5. Having considered submissions of learned counsel for the petitioners, this Court does not find any merit in the petition.

6. It has been rightly noticed by learned trial Court that as a general rule plaintiff is the dominus litis i.e. the master of the suit and can choose the persons against him he wishes to litigate; and cannot be compelled to sue a person against whom he does not seek any relief. However, Order 1 Rule 10(2) of the Civil Procedure Code provide an

**CR-3769-2024****-3-**

exception to the general rule, under which the Court, at any stage of the proceedings may either upon or without the application of either party, order the name of any party improperly joined, whether as plaintiff or defendant to be struck out, or name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court is considered to be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit be added. It was noticed by the trial Court that in the present case FIR No.667 dated 09.12.2023 was lodged on the complaint of defendant No.2 Smt. Sonia, i.e. daughter-in-law of the plaintiffs- petitioners. The Court noticed the role of defendant Nos.1 & 6 to 12 which indicate that defendant No.1 had been arrayed as a party simply because he was brother of defendant No.2 & was surety in a criminal case when the motor vehicle was released on superdari. Defendant Nos.6 & 12 are found to respective dealer and authorized agency of the motorcycle, from which the motorcycle had been purchased. It was alleged that defendant No.6 had falsely testified on the basis of a false bills in the criminal case and that they had generated a false bill which had been relied by defendant No.2 during her testimony. Defendant No.7 was alleged to be the ex-sarpanch of the village. Defendant No.8 was alleged to have made tent arrangement during marriage. Defendant No.9 is the grocery owner and defendant No.10 is the jewelry shop owner, who were alleged to have given false bill and testified accordingly.



CR-3769-2024

-4-

7. Learned trial Court rightly observed that simply because defendant Nos.1 & 6 to 12 had testified during the criminal trial against the petitioners would not mean that their testimonies were found to be false or that they testified to cause physical and mental harassment to the petitioners. It is conceded by learned counsel for the petitioners that no finding has been returned by the trial Court, that testimonies made during criminal case by defendant Nos.1, 6 to 12 were false. No case of perjury has been filed against these defendants.

8. In the aforesaid facts and circumstances, learned trial Court did not commit any error in allowing the application and to delete defendant Nos.1 & 6 to 12 from the list of array of defendants. This Court does not find merit in the present revision. As such, same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

July 09, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No