



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5240 of 2018 (O&M)
DATE OF DECISION: 19th SEPTEMBER, 2024

Sharanjit Kaur

.... Appellant

Versus

Harjinder Singh

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Ms. Bhupinder Kaur, Advocate,
for the appellant.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

1. This is regular second appeal filed by the unsuccessful appellant-plaintiff in a suit for damages filed by her for malicious prosecution.

2. The brief facts of this case, as has been delineated from the judgment and decree passed by the trial Court, are that the appellant-plaintiff had filed a suit claiming therein that the appellant was employed as a teacher in government school and she was married with the respondent, who at that time was posted as Constable in Punjab Police. However, their marriage could not go smoothly, therefore, the appellant had initiated certain proceedings against the respondent on matrimonial side. Ultimately, the respondent had filed a petition for divorce from respondent, which was dismissed upto the High Court. Just to harass the appellant further, the respondent registered a false and frivolous case i.e. FIR No.76 dated 21.05.2004 under Sections 420, 467 and 471 IPC against the appellant; for allegedly; fabricating a certificate showing the



appellant to be in reserve category of 'Economic Weaker Section'. However ultimately, in the said case, the appellant was acquitted by the Judicial Magistrate Ist Class, Ludhiana, vide judgment and order dated 26.09.2011. Accordingly, it was asserted that since the appellant was harassed and prosecuted with a malicious intention, therefore, she was entitled to claim damages to the tune of Rs.10.00 Lakhs. Accordingly, the suit was filed.

3. The appellant appeared as a witness in the present suit as PW-1 and she also examined her sister as PW-2 to assert that she had not taken the government job on the basis of said certificate; and also to bring on record the other facts relating to the matrimonial aspects. Beside this, the acquittal order passed by the Judicial Magistrate Ist Class, Ludhiana was led in evidence as Ex.P-1.

4. After appreciation the evidence led on file by the respective parties, the trial Court dismissed the suit filed by the appellant, vide judgment and decree dated 30.05.2017. Aggrieved against the same, the appellant had filed the appeal before the lower Appellate Court, which was also dismissed, vide judgment and decree dated 30.04.2018. Hence, the present appeal has been preferred by the appellant.

5. Arguing the case, learned counsel for the appellant has reiterated the assertions made in the plaint and has submitted that since the appellant has been acquitted on the charges in a complaint filed by the respondent with a mala fide intention, therefore, the appellant is entitled to claim the damages and the same has rightly been claimed. Both the Courts below have gone wrong in law in dismissing the suit filed by the appellant. No other argument has been raised.



6. Having heard learned counsel for the appellant and having perused the record, this Court finds that the respondent was only an informant regarding the alleged offence having been committed by the appellant. Thereafter, since it was a FIR case, therefore, the entire action was taken by the police, and not by the respondent. Even the police had found some substance in the allegations leveled by the respondent, therefore, challan was also filed against the appellant. However, the record shows that during the trial, the prosecution examined only the respondent-author of the FIR and the Investigating Officer of the case. Both of them have duly deposed in commensuranc with the information supplied by the respondent to the police. However, thereafter the prosecution did not produce the remaining witnesses and the material to complete the evidence in the case. Therefore, the trial Court closed the prosecution evidence by order of the Court. It is in these circumstances that the appellant has been acquitted by the trial Court in the FIR case on the ground that prosecution has failed to prove the case by not leading the material evidence on the file. By any means, it cannot be said that it was the respondent-author of the FIR, who was responsible for not producing the witnesses before the Criminal Court. Hence, mere acquittal in the criminal case initiated on the information supplied by the respondent would not be a sufficient ground for decreeing the suit of the appellant filed by her for damages on the ground of malicious prosecution.

7. Both the Courts below have recorded that no findings have been recorded by the Criminal Court that certificate got issued by the appellant was genuine or that the appellant was not involved in any such action. Acquittal by default in leading the evidence is not the same thing



as acquittal on merits for the purpose of suit for damages for malicious prosecution. So far as the evidence in the present suit is concerned, there is nothing on record to show any maliciousness on the part of the respondent in making complaint to the police regarding issuance of a certificate of EWS in favour of the appellant. In the present suit, no witness has been summoned from the office from which the certificate in question is alleged to have been issued. Therefore, the legal validity of the said certificate itself is a moot point even now.

8. Otherwise also, the present appeal is directed against the concurrent judgments, decrees and the findings of fact recorded by both the Courts below. However, the concurrent findings of fact recorded by the Courts below are not even to be interfered with only for possibility of arriving at a different conclusion on re-appreciation of the evidence; unless there is an abject perversity shown to the Court or some substantial question of law is involved in the matter. However, learned counsel for the appellant has not been able to highlight any substantial question of law involved in the matter and this Court does not find any perversity in the findings recorded by both the Courts below.

9. In view of the above, finding no merit in the present appeal, the same is dismissed.

10. The pending miscellaneous application, if any, is also disposed of as such.

(RAJBIR SEHRAWAT)
JUDGE

19th SEPTEMBER, 2024
'Sandeep'

Whether speaking/reasoned:	Yes
Whether Reportable:	Yes