

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

CITY CIVIL COURT APPEAL NO: 272 OF 2019

Appeal filed under Section 96 R/w Order XLI Rule 1 of C.P.C., aggrieved by the Judgment and Decree dated 07/03/2019 passed in O.S.No.139 of 2012 on the file of the learned XI Additional Chief Judge, City Civil Court at Hyderabad.

Between:

Dr.Naresh Chand, S/o Late Prof. Kishen Chand, Aged 81 Years, Occ. Director, M/s.Mahalakshmi Glass Works Pvt. Ltd., Dr.E.Moses Road, Mumbai- 400 011.

... **APPELLANT**

AND

Mr. Poonam Chand, S/o Mahesh Chand, H.No.7-1-95/2, Sheesh Mahal Complex, Ameerpet, Hyderabad- 500 016.

... **RESPONDENT**

**Counsel for the Appellant : Smt. Pooja Shukla Rep. SRI. MOHD ASIF
AMJAD**

**Counsel for the Respondent : Sri V. Hariharan Rep. SRI SRIKANTH
HARIHARAN**

The Court delivered the following: JUDGMENT

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CITY CIVIL COURT APPEAL No.272 OF 2019

JUDGMENT:

This is an appeal filed by the appellant, being aggrieved by the judgment and decree, dated 07.03.2019 passed in O.S.No.139 of 2012 by the learned XI Additional Chief Judge, City Civil Court at Hyderabad (for short "the trial Court").

2. The appellant herein is the plaintiff and the respondent is the defendant before the trial Court. The parties herein are referred to as they were arrayed in the suit before the trial Court for the sake of convenience and clarity.

3. The case of the plaintiff before the trial Court is that the defendant has filed a private complaint vide C.C.No.2031 of 2006 on the file of III Additional Chief Metropolitan Magistrate at Hyderabad alleging that the documents marked as Exs.P6 to P9 in the said case were submitted before the Senior Police Inspector and Rationing Officer at Mumbai and that they are defamatory and are liable for prosecution under Section 500 of IPC. It is the further case of the plaintiff that the defendant along with Rajini Chandra, Padmini Chandra and Prem Chand have filed a partition suit vide O.S.No.31

of 2003 and O.S.No.24 of 2005, which were pending on the file of IX Additional Chief Judge, City Civil Court at Hyderabad and that the defendant herein has claimed partition of the suit schedule properties in the said suits contending that they are the children of Mahesh Chand who is the elder brother of the plaintiff. The said Mahesh Chand who is the defendant No.1 in O.S.No.31 of 2003 filed written statement by mentioning that the plaintiffs 1 to 4 and defendants 2 to 12 are the children born to him through his wives, that the plaintiffs are the illegitimate children and that they have no right to maintain the suit for partition. It is the case of the plaintiff that he is defendant No.4 and his elder brother Mahesh Chand is defendant No.1 in O.S.No.32 of 2003 and the same was allotted a new number vide O.S.No.24 of 2005. He further averred that Mr.Mahesh Chand has filed his written statement in the said suit contending that mother of plaintiffs and defendant Nos.2 and 3 namely Smt.Shantha Bai is not the legally wedded wife of defendant No.1 and further denied that the plaintiffs and defendants 2 and 3 are the children of defendant No.1 and that in the said suit, an issue was also framed as to whether their mother Shanta Bai is the legally wedded wife of 1st defendant and whether the plaintiffs and defendant Nos.2 and 3 are the legitimate children of the 1st

defendant. It is the case of the plaintiff that he is managing the Companies as a Director including M/s.Mahalakshmi Glass Works Pvt.Ltd., situated at Mumbai and as the defendant attempted to enter the premises of said M/s.Mahalakshmi Glass Works Pvt.Ltd., by creating nuisance and since the defendant has secured the ration card by using the address of M/s.Mahalakshmi Glass Works Pvt.Ltd., a police report was given at Mumbai and a complaint was also given to the Rationing Officer, Mumbai. The plaintiff was constrained to file SC No.3645 of 2006 in Mumbai Court against Poonam Chand, Prem Chand, Rajini Chandra and Padmini Chandra and notices were ordered in the said case and the defendant received notice at Hyderabad. It is his further case that Mr.S.K.Patil has submitted Ex.P6 complaint petition dated 20.07.2006 to the Senior Police Inspector, N.M.Joshi Police Station, N.M.Joshi Marg, Mumbai when the defendant attempted criminal trespass into the premises of M/s.Mahalakshmi Glass Works Pvt.Ltd., and tried to enter the Director's room and created nuisance. Similarly, Ex.P7 is also a report given to the Senior Police Inspector at Mumbai when the defendant repeated the said offence. It is his further case that Ex.P8 is the report submitted by Mr.Moti Chand to Rationing Officer, Mumbai for cancellation of Ration Card dated 02.12.1994 procured

in the name of defendant by showing the address of M/s.Mahalakshmi Glass Works Pvt.Ltd., informing that the defendant is residing in his permanent home at Hyderabad. He further submits that he has submitted Ex.P9 report to the Rationing Officer, Mumbai informing that Mr.Poonam Chand cannot use the address of M/s.Mahalakshmi Glass Works Pvt.Ltd., and ration card issued in his name should not have the said address. The plaintiff further submits that the defendant filed C.C.No.2031 of 2006 at Hyderabad with a malicious intention as a counter blast to his suit No.3645 of 2006 in order to coerce him for a settlement in the partition suits filed by the defendant and others. It is his further case that the defendant gave evidence as PW1 and produced Exs.P1 to P22 in C.C.No.2031 of 2006 and that in the said case, the III Additional Metropolitan Magistrate at Hyderabad has acquitted the plaintiff herein and also Mr.S.K.Patil. It is his case that the defendant has filed a private complaint in C.C.No.2031 of 2006 with ulterior motive to coerce and harass him for his advantage in partition suits and that the said criminal case was lodged without any reasonable and probable cause and that due to the said case, he suffered mental torture for a long period for about five years besides incurring heavy expenses for travelling from Mumbai to Hyderabad and also his stay at

Hyderabad. Therefore, he is entitled for damages from the defendant. Hence, the suit.

4. The defendant has filed written statement denying the averments of the plaint. It is further submitted by the defendant that the recitals about C.C.No.2039 of 2006 is a fact on record. He further submitted that the contention of Mahesh Chand, the defendant No.1 in O.S.No.24 of 2005 is false and the plaintiff being the younger brother of Mahesh Chand is aware of all the facts. It is further contended by the defendant that the plaintiff is taking advantage of the pending disputes. The case filed by the plaintiff in suit No.3645 of 2006 against the defendant and others was dismissed for non-prosecution on 31.10.2009 and that the plaintiff got filed false complaints with an intention to harass the defendant and to cover up his illegal activities. It is further contended that the evidence in the criminal case vide C.C.No.2030 of 2006 and the judgment cannot be considered in the present proceedings and that the plaintiff cannot seek any relief relying on the said judgment. It is further contended that he has also filed an appeal against the said judgment in C.C.No.2030 of 2006. He further contended that the plaintiff having defamed the defendant cannot take advantage of his own wrongful acts and the allegations with regard to his sufferance

and mental torture are also false and created for the purpose of the suit and that the plaintiff is not entitled for any damages. He further submitted that the plaintiff has filed the above suit at the instance of Mr.Mahesh Chand, who is the father of the defendant acting in prejudice to his right and interest. He therefore, prayed to dismiss the suit.

5. Based on the above pleadings, the trial Court has framed the following issues for trial:

- "1) Whether the plaintiff is entitled for recovery of a sum of Rs.20,92,573/- from the defendant towards damages?
- 2) To what relief?"

6. At the time of trial, the plaintiff got examined PW1 and got marked Exs.A1 to A83, while the defendant got examined DW1 and got marked Ex.B1. Based on the evidence on record, the trial Court has dismissed the suit. Aggrieved by the said judgment and decree, the present appeal is preferred by the unsuccessful plaintiff.

7. Heard the submissions of Smt.Pooja Shukla, learned counsel representing Sri Mohd.Asif Amjad, learned counsel for the appellant

and Sri V.Hariharan, learned Senior Counsel representing Sri Srikanth Hari Haran, learned counsel for the respondent.

8. The learned appellant counsel has submitted that the judgment of the trial Court is contrary to law and fact³. The appellant counsel has filed written arguments to the effect that the trial Court has erroneously dismissed the suit and that the impugned judgment is not sustainable in law and on facts and that the trial Court failed to appreciate the evidence in correct perspective which lead to an erroneous conclusion. She further submitted that the essential ingredients to sustain a claim for malicious prosecution have been satisfied i.e. the prosecution by the respondent, termination in favour of the appellant, absence of reasonable and probable cause, prosecution initiated with malice, when all these ingredients got satisfied, the trial Court ought to have appreciated it on settled principles of law but has failed to do the same. She further argued that the acquittal of the appellant in the private complaint has not been challenged by the respondent and thus, the judgment attained finality. The trial Court has erred in not appreciating the vital documentary evidence of Exs.A1 to A83. He further submitted that the trial Court ought to have seen that the word illegitimate son in public records and pleadings amounts to defamation and is

punishable under Section 500 IPC and that the said imputations are deliberate, malicious and intended to damage the appellant's reputation and that it is well established through Ex.A1 and other material that the prosecution was initiated maliciously without any reasonable or probable cause but with a sole intention to harass the appellant. She further argued that the trial Court travelled beyond the pleadings by considering the issue with regard to the ration card disputes and partition suit which are not relevant to subject suit. She further argued that the appellant being the Director of M/s.Mahalakshmi Glass Works Pvt.Ltd., incurred litigation expenditure from company funds while defending himself in a case filed in relation to his official capacity and therefore, prayed to allow the appeal and set aside the impugned judgment and decree and to award damages and costs through this appeal.

9. The learned Senior Counsel for the respondent, on the other hand, has submitted that the plaintiff got filed a vexatious suit based on false grounds and that he is not at all entitled to claim any damages from him. The acquittal in a criminal case does not amount to a conclusion that it was initiated with a malicious intention. The proof before the criminal court depends on several other factors of proof beyond reasonable doubt and that a finding of acquittal by

the criminal Court does not bind the civil Courts. He further argued that just because the criminal case ended in acquittal, the plaintiff herein cannot claim any damages for filing the said complaint against him. The circumstances and the humiliation felt by the defendant let him to file the said complaint before the criminal Court and he has also submitted that they have also filed an appeal against the said judgment and decree. However, the plaintiff cannot gain any strength by the acquittal order of the criminal Court and claim damages in the present suit, therefore, he argued that the plaintiff has no legs to stand and his case do not have any strength as it is based on false and frivolous allegations. He further argued that the trial Court has given a very reasoned finding in his favour, he therefore, prayed to uphold the same and dismiss the appeal.

10. Based on the above rival contentions, this Court frames the following points for consideration:

- 1) Whether the defendant has launched the criminal proceedings vide C.C.No.2031 of 2006 with a malicious intention without there being any reasonable or probable cause? If so, whether it resulted in any damages to the plaintiff?
- 2) Whether the plaintiff is entitled to recovery of an amount of Rs.20,92,573/- towards damages and costs?

- 3) Whether the judgment and decree of the trial Court is sustainable in law and under the facts?
- 4) To what relief?

11. **POINT NOS.1 AND 2:**

a) The case of the plaintiff is that he suffered humiliation and incurred huge expenditure for travelling from Mumbai to Hyderabad every time when he was called for and that since he was falsely implicated in Criminal proceedings vide C.C.No.2031 of 2006 and that the said proceedings got ended in acquittal, that he was wrongly prosecuted by the defendant with a malicious intention without there being any reasonable or probable cause, therefore he is entitled for damages.

b) The plaintiff further contends that the said calendar case was filed as counter blast to his suit No.3645 of 2006 to coerce him for settlement in the partition suit. Thus, he needs to prove that C.C.No.2031 of 2006 was launched with a malafide intention with ulterior motive. The acquittal in itself is not sufficient ground to hold that the said case was filed with ulterior motive to harass the plaintiff. The pleadings in this plaint itself show that C.C.No.2031 of 2006 was filed based on the reports filed before the Senior Police Inspector of Mumbai Police Station and Rationing Officer, Worli, Mumbai which

are marked as Exs.P6 to P9. Admittedly, the said reports pertain to the complaints before the Mumbai Police Station and Rationing Officer, Mumbai. A perusal of the judgment in C.C.No.2031 of 2006 filed under Ex.A1 discloses that Exs.P6 and P7 are the letters addressed to revenue authorities and complaint given to Police Officer stating that the complainant i.e. the defendant herein and his brother are illegitimate sons of Mahesh Chand. Therefore, it is brought out from the said documents that the defendant and his brother were referred to as illegitimate sons of plaintiff's brother Mr.Mahesh Chand. The said allegations as illegitimate sons, formed the basis for lodging a private complaint and prosecuting C.C.No.2031 of 2006 by the defendant.

c) The ingredients of Section 500 of IPC would get attracted once they suffer such a defamatory statement made in the public document. Therefore, launching of the said prosecution against the plaintiff by filing a private complaint is based on a sound reasoning but not with a malicious intention. It cannot be said that the said C.C. has been launched with malicious intention and without there being any reasonable cause. Admittedly, they were arrayed as illegitimate sons in these two documents under Exs.P6 and P7 which forms the basis for the defendant to launch prosecution in

C.C.No.2031 of 2006 against the plaintiff. Therefore, no malafidies can be attributed to the defendant. Once, the said ingredient cannot be made out, the plaintiff cannot succeed in claiming any damages. The plaintiff has filed voluminous documents under Exs.A1 to A83. Ex.A1 is the judgment in C.C.No 2031 of 2006. Exs.A2 and A3 are the plaint and written statement in O.S.No.31 of 2003, Exs.A4 and A5 are the amended plaint and written statement in O.S.No.32 of 2003, Exs.A6 and A7 are the issues and additional issues in O.S.No.24 of 2005, E.A8 is the office copy of legal notice dated 23.12.2011 and Ex.A9 is the postal acknowledgment card of defendant. He has also filed bunch of documents relating to professional charges paid by the plaintiff in C.C.No.2031 of 2006 under Exs.A10 to A21 and he has also filed his air travel expenses while attending the proceedings in C.C.No.2031 of 2006 under Exs.A22 to A48. Further he has filed the other documents with regard to hotel expenses and document sheets relating to train/bus/auto and other miscellaneous expenses under Exs.A49 to A83. All these documents would fall for consideration if it is made out that the prosecution in C.C.No.2031 of 2006 is launched maliciously without there being a probable and reasonable cause. When that is not made out, these documents do not fall for any

consideration and the plaintiff has failed to prove his case that he was prosecuted maliciously, therefore, it is held that the plaintiff is not entitled to recover any damages from the defendant. Point Nos.1 and 2 are answered accordingly.

12. **POINT NO.3:**

In view of the reasoned findings arrived at point Nos.1 and 2, it is held that the judgment and decree passed by the trial Court are found to be well reasoned and hence, they are held to be sustainable in law and under the facts and circumstances of the case.

13. **POINT NO.4:**

In the result, the appeal is dismissed upholding the judgment and decree, dated 07.03.2019 passed in O.S.No.139 of 2012 by the learned XI Additional Chief Judge, City Civil Court at Hyderabad. No costs.

Miscellaneous Applications, if any, pending in this appeal shall stand closed.

//TRUE COPY//

Sd/- P. GOWRI SHANKAR
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The XI Additional Chief Judge, City Civil Court, Hyderabad (With Records if any)
2. One CC to SRI. MOHD ASIF AMJAD Advocate [OPUC]
3. One CC to SRI. SRIKANTH HARIHARAN Advocate [OPUC]
4. Two CD Copies

HIGH COURT

DATED:03/09/2025

JUDGMENT

CCCA.No.272 of 2019



DISMISSING THE APPEAL

G. 09/09/25
R.
30/12/25

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

CITY CIVIL COURT APPEAL NO: 272 OF 2019

Between:

Dr.Naresh Chand, S/o Late Prof. Kishen Chand, Aged 81 Years, Occ.
Director, M/s.Mahalakshmi Glass Works Pvt. Ltd., Dr.E.Moses Road,
Mumbai- 400 011.

... **APPELLANT**

AND

Mr. Poonam Chand, S/o Mahesh Chand, H.No.7-1-95/2, Sheesh Mahal
Complex, Ameerpet, Hyderabad- 500 016

... **RESPONDENT**

Appeal filed under Section 96 R/w Order XLI Rule 1 of C.P.C., aggrieved by
the Judgment and Decree dated 07/03/2019 passed in O.S.No.139 of 2012 on
the file of the learned XI Addl. Chief Judge, City Civil Court at Hyderabad.

ORDER: This appeal coming on for hearing and upon perusing the
grounds of appeal, the Judgment and Decree of the Lower Court and the
material papers in the Petition and upon hearing the arguments of Smt. Pooja
Shukla representing Sri Mohd Asif Amjad, Advocate for the appellant and of Sri
V. Hariharan, representing Sri Srikanth Hari Haran for the respondent.

This Court doth Order and Decree as follows:

1. This appeal is be and hereby dismissed upholding the judgment and decree of the Lower Court.
2. That there shall be no order as to costs.

// TRUE COPY //

Sd/- P. GOWRI SHANKAR
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The XI Addl. Chief Judge, City Civil Court at Hyderabad.
2. Two CD Copies.

K₂

HIGH COURT

DATED:03/09/2025

DECREE

CCCA.No.272 of 2019



DISMISSING THE APPEAL

By order
of
23/12/20