

CR-1586-2020 (O&M)

2025.PHHC.150082



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1586-2020 (O&M)

Date of decision : 17.11.2025

Lachhi Ram & ors.

..... Petitioners

versus

Rajinder Kumar

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Akshay Jindal, Senior Advocate with
Mr. Yashvardhan Goyal, Advocate
Mr. Bhavya Vats, Advocate
for the petitioners.

Mr. Shvetanshu Goel, Advocate
for the respondent.
(Amicus curiae).

PANKAJ JAIN, J. (ORAL)

1 Present revision petition is directed against order dated 28.01.2020 (Annexure P-5) passed by Civil Judge, (Jr. Division), Karnal whereby application filed by the petitioners under Order VII Rule 11 CPC seeking rejection of the plaint stands dismissed. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the petitioners as defendants and the respondent as plaintiff.

2 Petitioners have been arraigned as defendants in a suit for damages filed by the respondent. As per case pleaded in the plaint petitioners are aggrieved of registration of FIR bearing No.123 dated 07.08.2006 registered for offences punishable under Sections 403/406/506 read with Section 120-B IPC which further led to trial. The plaintiff earned



acquittal vide judgment dated 02.07.2014. It is not disputed that against the order of acquittal an appeal was preferred which now stands dismissed vide order dated 30.01.2017. The present suit was instituted on 04.02.2018.

3 Defendants moved present application seeking rejection of plaint claiming that the suit having been filed seeking damages on account of malicious prosecution would be governed by Article 74 of the Limitation Act, 1963 (for short, 'the 1963 Act'). From the bare perusal of the plaint, it is evident that the suit is barred by time and the same thus deserves to be rejected at the threshold.

4 The application stands rejected by the Trial Court holding that the limitation is a mixed question of law and fact which cannot be adjudicated without evidence. Trial Court accordingly dismissed the application filed by the defendants-petitioners.

5 Learned senior counsel for the petitioners has assailed the order passed by the Trial Court. He submits that the plaintiff himself in the plaint pleaded that the cause of action accrued in his favour in the year 2006. That being so, under Article 74 of the 1963 Act, the limitation prescribed to file the suit is one year from the date when the plaintiff is acquitted or when the prosecution is otherwise terminated. In the present case the plaintiff having been acquitted vide judgment dated 02.07.2014 present suit instituted on 04.02.2018 is barred by law of limitation and would be thus liable to be rejected under Order VII Rule 11 CPC.

6 *Per contra*, Shvetanshu Goel, Advocate (Amicus curiae), submits that it not being a case seeking damages for malicious prosecution would be governed by Article 113 of the 1963 Act, the limitation for which



would be three years. The same shall commence from the date when the right to sue accrued. He submits that it is an admitted fact on record that after the plaintiff earned acquittal defendants preferred appeal against the same. The same was dismissed only on 30.01.2017. Appeal being continuation of the trial proceedings, the limitation shall commence from the date of decision of the appeal as the right to sue in favour of the plaintiff accrued only on 30.01.2017 and not prior thereto as the Court was already seized of the matter. In support of his contention, he relies upon judgments passed in *P.Kumarrakurubaran Vs. P.Narayanan & ors. 2025 (2) RCR (Civil) 758, Malluru Mallappa (D) Thr. Lrs. Vs. Kuruvathappa & ors., 2020 AIR (SC) 925, West Bengal State Electricity Board Vs. Dilip Kumar Ray (2007) 14 Supreme Court Cases 568 and Akhtari BI (Smt) Vs. State of M.P. (2001) 4 Supreme Court Cases 355.*

7 I have heard learned counsel for the parties and have gone through the records of the case.

8 In order to appreciate the rival contentions raised by the parties, it will be apt to peruse the relevant pleadings raised in the plaint which are culled out as under :-

“5. That by hatching a deep rooted conspiracy started making the false applications against the plaintiff and in continuity of the deep routed conspiracy an FIR bearing No.123 dated 7.8.2007 under section 403/406/506 of IPC was got registered in the PS Kunjpura by way of filing the complaint under 409/420/506 read with section 120-B of IPC before the Learned Illqua Magistrate Shri Vivek Nasir, the then JMIC/Illaqua Magistrate First Class Karnal with a title as Lachhi Ram Sarpanch of Gram Panchayat (defendant no.1) Versus Jagdish Kumar, Secretary/Gram Sachiv and the plaintiff Rajinder



Kumar Panch, member of the Gram Panchayat of the Gram Panchayat village Rindal, Tehsil and District Karnal. The copy of the complaint is attached herewith for the kind perusal of this court. As per the complaint the main contents of the complaint are as under:-

"That the Gram Panchayat Village Rindal is the owner of agriculture land measuring 26 kanals approximately which is sham Lat land. Gram Panchayat used to such land over area to lease out the land to villagers on year to year basis in which the approximately 6 lessee of the land was released to Sushil Kumar son of Phulla Ram caste Kamboj, Ranbir Singh son of Hari Singh Caste Kamboj, Sunder Lal son Ramji Dass, Bishnu Ram son of Dachu Ram, Rajiv son of Balwant. Out of the total lease money, a sum of Rs.2,35,000/- was paid by the aforesaid lessee to the Gram Panchayat at the time of open auction of the members including Sarpanch Gram Sachiev and Rajinder Kumar were present at the spot. The amount of Rs.2,35,000/- was handed over to Jagdish Kumar Gram Sachiv and he was bound to deposit the above said amount in the account of Gram Panchayat Rindle in the Karnal Cooperative Bank Limited, Mall Road in Account No.1980. But the aforesaid amount was also entrusted to Rajinder Kumar member Panchayat (plaintiff). Both the persons were bound to deposit the same in the aforesaid account of the Gram Panchayat but Lachhi Ram (defendant no.1) came to know this fact that amount in question has not been deposited in the account of the Gram Panchayat and same has been misappropriated by them. Similarly an amount of Rs.26,500/- was also received by the Gram Sachiev on account of leasing out the Johar for fisheries purposes. Lachhi Ram Sarpanch moved an application dated 20.06.2006 before the SHO, PS Kunjpura Karnal for the registration of the case against Gram Sachiv, but no action PIR has been lodged against the Gram Sachiv by the Police Station concerned. An application dated 20.06.2006 was also given to Learned Deputy Commissioner, Karnal with regard to the amount of Rs.2,35,000/- and Rs.26,500/- as both amount have been misappropriated. The aforesaid amount was



entrusted by Sarpanch to Gram Sachiv and Rajinder Kumar in the presence of Surender Kumar, Panch (defendant no.3), Shri Mukesh Kumar (defendant no.8). The Learned Illaqua Magistrate sent the aforesaid complaint under section 156 (3) Cr.P.C directing the then SHO PS Kunjpura for registration and investigation of the case on the basis of which an FIR Bearing No.123 dated 7.8.2006 was got registered and the plaintiff faced the trial since his acquittal. The Learned Trial court vide his judgment dated 2.7.2014 acquitted the plaintiff from the charge. The above said Lachhi Ram son of Dila Ram (defendant no.1) made a false complaint against the plaintiff and a huge financial loss worth crores in rupees was suffered by the plaintiff as well as goodwill of the plaintiff who is the respectable of the village as well as locality has been shattered due to the act and conduct of the defendants by way of leveling the false allegations the plaintiff. Raj Pal son of Hari Singh deposited the amount of behalf of the Sarpanch of the village which was retained by him at the instance of Sarpanch Lachhi Ram, Surender Kumar son of Sher Singh made a atmosphere in the village as well in the locality against the plaintiff by way of the false allegations leveling of the embezzlement of the amount mentioned above as well as allegations of retaining the record of the Gram Panchayat, although the plaintiff was having no concern of the record of the Gram Panchayat because of the record of the Gram Panchayat remains in the custody of Sarpanch of the village and same is maintained by the Gram Sachiv, so the allegations of the retaining of the record of the Gram Panchayat was a deep rooted conspiracy in order to defame and to ruin the goodwill of the plaintiff. Raghbir Singh son of Sadhu Ram, Jai Singh son Hari Ram Madan Lal son of Amar Singh, Lachmman son of Karta Ram tried to defame the plaintiff in the village as well in the locality. All the above said Raghbir Singh, Surender Kumar, Jai Singh, Manal Lal, Lachhi Ram as well as Mukesh Kumar spread the rumor in the village as well as in the locality with the plaintiff is a dishonest person and an application was moved by the above said persons including other persons. Raj Pal Singh son of Hari Singh himself was deposited amount in the bank which retained by him and



as well as defendant no.1 Lachhi Ram. But false allegation has been leveled by them upto BDPO as well Deputy Commissioner Karnal and correct material has not been supplied by them for the concerned authority to DDPO Karnal he prepared a report vide which Deputy Commissioner Karnal, on the basis of which report suspended the plaintiff from the post of Gram Panchayat. Due to the above said defamation which was made by the defendants before the various authorities and before the public at large, the goodwill of the plaintiff was shattered and huge financial loss was occurred to the plaintiff. The abovesaid defendant no.1 also made a statement before the Trial Court as PW2 reiterating the contents of false complaint, defendant no.2 RajPal son of Hari Singh also made a false complaint before the Trial Court and false facts has been narrated by him against the plaintiff. Mukesh Kumar defendant no.8 also made a statement against the plaintiff. The above said Surender Kumar son of Sher Singh alongwith other defendants and inhabitants of the village also leveled a false allegation by way of giving a joint statement against the plaintiff. The plaintiff suffered a huge loss of the goodwill, his honesty, truthfulness and in the business of fish farming, hatchery as well as agriculture cropping, due to those alleged. The plaintiff from the year 2006 till date could not concentrated in his jobs and could not sit in the village, society, he was isolated due to the aforesaid reasons and loss of income, goodwill has been occurred in crores of rupees Damage to the above said reasons could be assessed by the Hon'ble court and after actual assessment of loss and damages the court fees would be levied by the plaintiff.

6. That the plaintiff suffered a huge loss in crores of rupees and a tentative court fee worth Rs.50/- has been affixed and as when the Hon'ble court would assess the actual loss as per evidence produced by the plaintiff, then the actual court fees would be affixed by the plaintiff.

7. That the cause of action arose in favour of the plaintiff and against the defendants in the year 2006 when all the defendants by hatching a deep routed conspiracy against the plaintiff and when the false allegations in various form and cause of action is till continuing.”

9 The question that needs to be decided by this Court is :-

 “Whether the suit filed is for damages on account of malicious prosecution or not?”

10 From the bare perusal of the pleadings, it is evident that the entire genesis of the suit is based upon false complaints alleged to have been filed against the plaintiff by the defendants, for which he had to face ordeal and lost his goodwill. In the prayer clause the plaintiff seeks decree for damages. In view of above, this Court finds that the only inference that can be drawn from the pleading is that the suit preferred is a suit filed seeking damages for malicious prosecution alleged by the plaintiff at the hands of the defendants.

11 Accordingly, the limitation has to be governed by Article 74 of the Schedule appended to the 1963 Act and not Section 113 of the 1963 Act, as suggested by Mr. Goel, Advocate.

12 Having held so the next issue to be determined is the date on which the time shall begin to run for the purpose of limitation. Article 74 of the 1963 Act reads as under :-

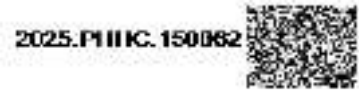
74.	<i>For compensation for a malicious prosecution.</i>	<i>One year.</i>	<i>When the plaintiff is acquitted or the prosecution is otherwise terminated.</i>
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13 In view of the provisions as contained under column three the time shall begin to run from the date when the plaintiff is acquitted, or the prosecution is otherwise terminated. Here the expression, 'the prosecution' is otherwise terminated includes a situation wherein the plaintiff earns discharge or acquittal in appeal. It does not contemplate a situation wherein the plaintiff stands acquitted by the Trial Court and there is an appeal preferred against such judgment. Thus, the inescapable conclusion is that, in the present case, the limitation started running from the day the plaintiff earned acquittal i.e. 02.07.2014. Even though there cannot be any quarrel with the proposition that an appeal is a continuation of the Trial, but the same shall not have the effect of enlarging the limitation, as prescribed under Article 74 of the 1963 Act.

14 Where from the bare reading of the plaint the Court can conclude that the suit is barred by limitation, application under Order VII Rule 11 CPC cannot be dismissed relying upon the proposition that limitation is a mixed question of law and fact. This Court accordingly finds that the application under Order VII Rule 11 CPC filed by the defendant ought not have been dismissed holding that the issue needs adjudication being mixed question of law and fact in the light of pleadings raised in plaint.

15 In view of the above, this Court finds that the impugned order dated 28.01.2020 passed by the Civil Judge (Jr. Division), Karnal cannot be sustained and is hereby set aside.



16 The plaint filed by the plaintiff is rejected as being barred by
limitation.

17 The civil revision stands allowed.

17.11.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No