

2025:PHHC:000146



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

RSA-3049-2019 (O&M)
Reserved on : 17.12.2024
Pronounced on : 07.01.2025

DAL CHAND AND OTHERS

....Appellants

VERSUS

RAJENDER AND OTHERS

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Shaveta Sanghi, Advocate for the appellants.
(through hybrid mode).

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the concurrent findings returned by both the Courts concerned.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellants herein filed a suit for damages and compensation on account of malicious prosecution alleged to have been launched by the defendant-respondents. It was averred in the plaint that one Jagbir was the brother of the plaintiff-appellant No.1 and uncle of the plaintiff-appellants No.2 to 4, who was a co-sharer in possession of 1/12th share in the total land measuring 355 Kanals 13 Marlas Bakadar 29 Kanals 13 Marlas situated within the revenue estate of Village Kithwari, Tehsil and District Palwal. The land of Jagbir was looked after by the plaintiff-appellant No.1 as Jagbir was of a weak mind and used to associate with Sadhus etc. The defendant-

respondents were aware of the weakness of Jagbir and with a *malafide* intention confined Jagbir on 31.05.2006. On 15.06.2006 all the defendant-respondents in furtherance of their common intention procured a sale deed of his share on payment of an ostensible sale consideration of ₹16,66,000. As per the recital in the sale deed, the payment was made through a bank transaction, however, later the amount was alleged to have been got transferred by them by opening a new account for Jagbir. It was further averred that plaintiff-appellant No.1, on coming to know of the sale deed, filed a complaint in the Court of Sub-Divisional, Judicial Magistrate (SDJM), Palwal on 16.07.2007 and an inquiry was ordered under Section 202 CrPC. Since the complaint had been sent to the Station House Officer (SHO), RS City Palwal, the defendant-respondents became aware of the same and immediately filed a complaint in the Court of Judicial Magistrate, 1st Class (JMIC) Palwal under Sections 364, 323, 506, 342, 347, 348, 384, 386 read with Section 34 IPC which was alleged to be totally false and baseless. It was further averred that they have filed a civil suit challenging the validity of the sale deed dated 15.06.2006 also. It was further the case set up that the defendant-respondents with the *malafide* intention dragged the plaintiff-appellants upto the High Court on the point of Court fees. It was further averred that in the criminal case the plaintiff-appellants were acquitted and that they incurred heavy expenses due to the litigation.

3. On notice the defendant-respondents appeared and filed their joint written statement raising various preliminary objections qua *locus standi*, concealment of material facts etc. It was averred in the written

statement that an appeal had been preferred in the High Court against the acquittal being CRM-A-322-MA/2013 of 2013 which is still pending. All other allegations were denied.

4. From the pleadings of the parties the following issues were framed :

1. Whether the plaintiffs are entitled to damages/compensation to the tune of ₹5,00,000 on account of malicious prosecution ? OPP
2. Whether the defendants prosecuted the plaintiffs and whether the prosecution terminated in favour of the plaintiffs ? OPP
3. If issue No.2 is proved then whether the prosecution was actuated with malice and was without any reasonable cause ? OPP
4. Whether the plaintiffs suffered any damages due to the prosecution ? OPD
5. Whether suit of the plaintiffs is maintainable in the present form ? OPD
6. Whether the plaintiffs have no *locus standi* to file the present suit ? OPD
7. Relief.

5. The Trial Court vide judgment and decree dated 21.12.2016 dismissed the suit with costs. Aggrieved by the same an appeal was preferred by the plaintiff-appellants which appeal was also dismissed by the

First Appellate Court vide judgment and decree dated 23.01.2019. Hence, the present regular second appeal by the plaintiff-appellants.

6. The learned counsel for the plaintiff-appellants would contend that both the Courts have erred in dismissing the suit. It is urged that the defendant-respondents had filed the complaint without any valid grounds and that they had acted with malicious intent. It was further the contention that the criminal proceedings had ended in acquittal and that damages were suffered in terms of financial loss, mental agony and loss of reputation.

7. Heard.

8. In the present case the First Appellate Court has noticed that the appeal against acquittal is still pending before this Court. Further still, in order to show defamation, it was incumbent upon the plaintiff-appellants to have shown that there was damage or loss incurred by them on account of the complaint. The learned for the plaintiff-appellants was not able to point out to any evidence on the record to show that there was any malicious intention on the part of the defendant-respondents in filing the criminal complaint. Further still, it was incumbent upon the plaintiff-appellants to have shown that there was financial loss and loss to their reputation. The plaintiff-appellants failed to prove any evidence on the record to show any loss or damage which was suffered by them. In the absence of any evidence having been led by the plaintiff-appellants regarding any loss having been suffered by them in terms of financial loss or any loss of reputation, no fault can be found with the judgments and decrees passed by both the Courts concerned.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

07.01.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No