

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****110****RSA-4097-2018 (O&M)****Date of decision: 12.11.2025****Malkiat Singh @ Amrik Singh****...Appellant(s)****Vs.****Iqbal Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Vikas Sharma, Advocate for the appellant.***********NIDHI GUPTA, J.**

Plaintiff is in Second Appeal against the concurrent judgments and decrees of the Id. Courts below, whereby suit filed by the appellant for recovery of Rs.3 lacs on account of damages for malicious prosecution of the plaintiff, his wife Darshan Kaur, and Gurdev Singh, Uncle of the plaintiff and the defendants, has been dismissed by both the Courts below.

2. The pleaded case of the appellant in the plaint was that the plaintiff and defendants are related to each other. The defendants bore a grudge against the plaintiff as their uncle, namely, Gurdev Singh had made a registered Gift Deed dated 11.04.2000 in favour of the plaintiff, and his wife Darshan Kaur. As such, defendants had filed false and frivolous complaint dated 10.10.2001 against the plaintiff and others; on the basis of which FIR No. 291 dated 03.12.2001 under Sections 420, 120-B IPC was registered at Police Station Banga against the plaintiff, his wife Darshan



Kaur, uncle Gurdev Singh and Ram Tirath, who was witness of Gift Deed. However, the plaintiff was acquitted in the said FIR No. 291 dated 03.12.2001 vide judgment dated 13.11.2013 passed by Judicial Magistrate 1st Class. As such, plaintiff filed present suit for recovery of Rs. 3 lacs by way of damages for the malicious prosecution of the plaintiff and his relatives.

3. Vide judgment and decree dated 11.04.2016, the Civil Judge (Senior Division) Shaheed Bhagat Singh Nagar had dismissed the suit of the plaintiff. Appeal filed by the plaintiff was also dismissed with costs by the learned District Judge, Shaheed Bhagat Singh Nagar vide judgment and decree dated 17.03.2018. Hence, present Second Appeal by the plaintiff.

4. It is *inter alia* submitted by learned counsel for the appellant that the malicious prosecution of the appellant by the defendants is established from the very fact that the plaintiff stood acquitted by the learned Trial Court vide judgment dated 13.11.2013. It is submitted that the plaintiff had undergone long and rigorous trial for a period of almost 13 years. However, as the prosecution could not prove the charges framed against the plaintiff beyond shadow of reasonable doubt, plaintiff was acquitted. The plaintiff had even stepped into the witness box as PW1 and tendered his Affidavit in examination-in-chief. However, respondents did not choose to cross-examine the appellant. Therefore, the statement of the plaintiff had gone un rebutted. Clearly, therefore, plaintiff was falsely implicated in FIR No. 291 dated 03.12.2001 by the defendants.



5. It is submitted by learned counsel for the appellant that both the Ld. Courts below have failed to appreciate that the present appellant was unnecessarily dragged into the litigation by the respondents no. 3 to 5 who had got the above-mentioned FIR registered against the appellant and others through their attorney respondent no. 2. It is further submitted that respondents no. 3 to 5 did not even join the proceedings, whereas on the other hand the appellant and others were made to undergo the rigours of trial for almost 13 years. It cannot be ignored that during all those 13 years, the appellant had to personally attend the Court on each and every date of hearing, which is nothing but harassment and humiliation. The appellant in order to defend himself had to engage a lawyer. Thus, the respondents have misused and abused the process of Court in order to arm twist the appellant.

6. It is therefore, submitted that learned Courts below were in error in dismissing the suit of the plaintiff.

In support, learned counsel relies upon following judgments:-

1. State of Rajasthan v. Jainudeen Shekh (SC) : Law Finder Doc Id # 703332;

2. S. Nambi Narayanan v. Siby Mathews (SC) : Law Finder Doc Id # 1220306; and

3. Anokh Singh v. Dalbir Singh, (Punjab And Haryana) : Law Finder Doc Id # 1400444.

7. No other argument is raised on behalf of the appellant. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.



8. No doubt, the plaintiff had to undergo rigorous trial for a period of 13 years and even he was acquitted by the learned Trial Court vide judgment dated 13.11.2013. However, plaintiff is unable to make out that as a result thereof, the plaintiff has suffered any damage either to his reputation or to his property.

9. In the present case, except for the bald statement of the plaintiff, there is nothing on record to indicate that the FIR in question was registered against the plaintiff and his family members out of malice. There is nothing on record to attribute malice to the defendants. Plaintiff has been acquitted by the learned Trial Court by holding that "*the prosecution has failed miserably to prove the guilt of the accused/plaintiff beyond shadow of reasonable doubt.*" However, the learned Trial Court has nowhere found version of the prosecution to be false in order for the same to constitute malicious prosecution. Plaintiff himself has admitted in his testimony as PW1 that the defendant had filed complaint dated 10.10.2001; whereafter after proper verification by the police, FIR was registered on 03.12.2001. After further investigation, challan against the plaintiff was presented. Plaintiff himself has nowhere denied the occurrence. Plaintiff has failed to prove that the defendants had acted with oblique motive. Admittedly, plaintiff has been acquitted as case against the plaintiff was not proved beyond reasonable doubt. However, it is nowhere mentioned by learned Trial Court that the plaintiff has been falsely implicated. It is the own admission of the plaintiff that due procedure and enquiry was conducted before registration of FIR.



Admittedly, complaint of the defendants was entrusted to the Incharge, Anti Fraud Staff, Nawanshahr for enquiry. The Anti Fraud Staff has recorded the statement of Attorney of complainant and other witnesses and had submitted Enquiry Report dated 13.11.2001. On the basis of the said Enquiry Report, opinion of the District Attorney (Legal) was taken; whereafter FIR was registered.

10. Furthermore, plaintiff has failed to show any proof of loss of reputation, avocation, work et cetera. No witness was examined who could establish that reputation of the plaintiff has been lowered due to registration of case. In fact, no details have been provided by the plaintiff himself regarding loss of any avocation, work or business. As such, plaintiff has been correctly held not entitled to damages as claimed.

11. The judgments cited by learned counsel for the appellant are distinguishable on facts and law and are not applicable to the facts of the present case. On the contrary, it is established position in law that merely moving a complaint, or instituting any legal proceedings, or even the acquittal of the plaintiff in such legal proceedings, would not by itself constitute malicious prosecution. The basic requirements/ingredients of malicious prosecution are that: i) the proceedings must have been instituted or continued by the defendant; ii) he must have acted without reasonable and probable cause; iii) he must have acted maliciously; iv) in certain classes of cases the proceedings must have been unsuccessful that is to say, must have terminated in favour of the plaintiff now suing; v) as a result of the malicious prosecution, the plaintiff has suffered damage; and



vi) that damages might be claimed in such an action under three heads i.e. (1) damage to the person, (2) damage to property, and (3) damage to reputation. From the records the plaintiff has failed to prove the above ingredients, especially that any damage has been caused to his person, to his property, or even to his reputation. I am supported in my view, by judgments of Hon'ble Supreme Court passed in **"West Bengal State Electricity Board versus Dilip Kumar Ray", (2007) 14 SCC 568**, and **"Ravinder Singh versus Sukhbir Singh", (2013) 9 SCC 245**. The said judgments have been referred by a Coordinate Bench of this Court in **CWP-29589-2018** titled as **"Rishi Gupta vs. State of Haryana and others"**, **decided on 18.01.2023**. In the present case, there is no evidence to show that any damage or harassment was caused to the plaintiff. It must be remembered that the institution of a legal proceeding by or on behalf of the defendant against the plaintiff maliciously and without reasonable and probable cause is actionable in tort *on proof of damage either to his reputation or to his property*. In the present case, the appellant/plaintiff has failed to prove any damage either to his reputation or to his property or to his person. Admittedly, the plaintiff was never prosecuted.

12. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings; or the legal position noted above.

13. In view of the above, present Regular Second Appeal is hereby **dismissed**.

14. Pending applications, if any, stand disposed of.

12.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No