



(208) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1949-2000 (O&M)
Reserved on:- 01.05.2026
Pronounced on: 07.05.2026
Uploaded on: 08.05.2026

THE STATE OF PUNJAB AND ANOTHERAppellants

Vs

JASBIR SINGHRespondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. I.S. Kingra, Senior DAG, Punjab.

Mr. D.P.S. Randhawa, Advocate
for the respondent.

VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal has been filed against the judgment and decree dated 30.11.1999 passed by the learned Additional District Judge, Gurdaspur. By the said judgment, the appellate court set aside the judgment and decree of the trial court and decreed the suit filed by the respondent/plaintiff, awarding damages to the extent of Rs. 70,000/- along with interest at the rate of 12% per annum from the date of institution of the suit until realization of the amount.

2. Briefly stated, the respondent/plaintiff instituted a suit for recovery of Rs. 1,00,000/- as compensation and damages on the ground that he had been arrested in connection with FIR No. 132/84, registered at Police Station Dhariwal, District Gurdaspur, under Sections 302/34 IPC on 29.10.1984. Upon completion of the investigation, the investigating agency submitted an untraced report, which was accepted on 16.11.1987, and the learned Sessions Judge ordered that no further action was required in the



matter. The plaintiff, however, remained in custody until 15.06.1989, when he was released on bail by the learned Additional Sessions Judge, Gurdaspur. It was alleged that his detention from 16.11.1987 (i.e., after acceptance of the untraced report) until 15.06.1989 was illegal, unlawful, and mala fide. On account of such detention, the plaintiff claimed to have suffered physical and mental agony, along with loss of reputation, and accordingly sought compensation to the tune of Rs. 1,00,000/-. A notice under Section 80 CPC was duly served upon the State; however, no relief was granted, compelling the plaintiff to file the present suit. The suit was contested by the defendants/State, who raised preliminary objections regarding non-joinder of necessary parties, invalidity of the notice under Section 80 CPC, and that the suit was barred by limitation. On merits, it was denied that the plaintiff had remained in illegal custody. It was asserted that his detention during the relevant period was bona fide, legal, and in accordance with law. The plaintiff filed a replication, reiterating the averments made in the plaint and controverting those raised in the written statement. On the basis of the pleadings of the parties, the following issues were framed by the trial court:

- 1. Whether the plaintiff is entitled to compensation by way of damages, if so, to what amount ? OPP.*
- 2. Whether the suit is bad for non-joinder of necessary Parties ? OPD.*
- 3. Whether the suit is bad for want of legal and valid notice u/s 80 C.P.C. ? OPD.*
- 4. Whether the suit is within time? OPP.*
- 5. Relief.*

3. After a full-fledged trial, the learned Civil Judge dismissed the suit filed by the respondent/plaintiff. Aggrieved by the said decision, the respondent/plaintiff preferred an appeal, which was partly allowed by the



learned Additional District Judge, Gurdaspur. The appellate court set aside the findings of the trial court and granted compensation to the respondent/plaintiff to the extent of Rs. 70,000/-, along with interest at the rate of 12% per annum from the date of institution of the suit until realization of the decretal amount. Dissatisfied with the judgment and decree passed by the first appellate court, the present Regular Second Appeal has been filed by the appellant. The appeal was admitted for hearing vide order dated 27.02.2001. Dr. Dyal Partap Singh Randhawa, Advocate, appeared on behalf of the respondent and advanced arguments.

4. I have heard counsel for the parties.

5. Learned State counsel vehemently contended that the findings recorded by the learned Additional District Judge are unsustainable in law, being based on mere surmises and conjectures rather than on a proper appreciation of the evidence on record. It was argued that the learned First Appellate Court failed to take into consideration a material fact, namely that the respondent/plaintiff had also been taken into custody in connection with FIR No. 27/1984, and that he had not been released on bail in that case. According to the State, after the submission and acceptance of the untraced report in FIR No. 132/1984, the factum regarding his continued detention in FIR No. 27/1984 was inadvertently not reflected in the record. It was further contended that since the respondent/plaintiff was in lawful custody in FIR No. 27/1984, the mere recital in official records indicating his custody in FIR No. 132/1984 cannot be construed as a mala fide or illegal act. Rather, the same was the result of a bona fide clerical or procedural error, for which the State cannot be held liable to pay compensation.



6. Per contra, learned counsel appearing on behalf of the respondent/plaintiff supported the impugned judgment and decree, submitting that the learned First Appellate Court had correctly appreciated both the facts and the law. It was argued that the evidence on record clearly established that the respondent/plaintiff had been kept in illegal and unlawful custody after the acceptance of the untraced report in FIR No. 132/1984, and that such detention caused him severe physical and mental suffering, besides seriously damaging his reputation. Counsel further contended that the learned First Appellate Court had rightly observed that FIR No. 27/1984 had never, in fact, been registered against the respondent/plaintiff. In the absence of any such case, there was no question of his being detained in connection therewith. Consequently, the plea taken by the State to justify the continued custody of the respondent/plaintiff was wholly untenable, and the award of compensation was both justified and reasonable in the facts and circumstances of the case.

7. The learned Civil Judge took into consideration documentary evidence led by the plaintiff, particularly Ex. P-1, which is a custody certificate issued by the jail authorities. As per this document, the plaintiff was admitted to Central Jail, Gurdaspur, on 30.10.1984 in connection with FIR No. 132/1984 dated 01.06.1984. It further records that the plaintiff was taken into police custody on 02.11.1984 and was re-admitted to the jail on 05.11.1984. Ex. P-1 also indicates that on 19.11.1984, the plaintiff was sent on police remand in connection with FIR No. 27/1984. Thereafter, he was brought back to jail on 26.11.1984 in relation to both FIR No. 132/1984 and FIR No. 27/1984. Subsequently, the plaintiff was transferred to District Jail, Nabha, on 16.12.1984. He remained in custody there and was later brought back to



Central Jail, Gurdaspur, on 22.03.1989 in connection with both the aforementioned FIRs. Ultimately, the plaintiff was released on bail on 15.06.1989. In addition to Ex. P-1, the plaintiff also relied upon Ex. P-2, a certificate issued by the jail authorities of District Jail, Nabha, which corroborates the period of his detention at that facility. Further, Ex. P-3 is a custody certificate issued by the Central Jail, Jalandhar, evidencing his confinement there for the relevant period. These documents were relied upon by the trial court to trace the movement and duration of the plaintiff's custody across different jails and in connection with the two FIRs in question.

8. The learned First Appellate Court disagreed with the findings of the learned Civil Judge primarily on the ground that FIR No. 27/1984 had not been registered against the respondent/plaintiff. However, such a view is legally unsustainable. It is not a mandatory requirement that a person must be specifically named in an FIR to be taken into custody in a criminal case. The law permits the investigating agency to array a person as an accused at a subsequent stage of investigation if material comes on record against him.

9. In the present case, the appellants/defendants have been able to demonstrate from the record that the respondent/plaintiff was, in fact, taken into custody in connection with FIR No. 27/1984 as well. There is no evidence available on record to show that the respondent/plaintiff had either been released on bail or acquitted in FIR No. 27/1984 prior to 15.06.1989. Therefore, his continued detention during the relevant period cannot be termed as illegal or unlawful. The learned Civil Judge, while appreciating the evidence, rightly concluded that even if, due to inadvertence, the closure of FIR No. 132/1984 on 16.11.1987 was not reflected in the custody records, the



same did not result in illegal detention of the respondent/plaintiff. This is because the respondent/plaintiff continued to remain in judicial custody in connection with FIR No. 27/1984. In contrast, the findings recorded by the learned Additional District Judge are not sustainable, as they appear to have been influenced primarily by the fact that the name of the respondent/plaintiff did not figure in FIR No. 27/1984, without properly appreciating the legal position and the material available on record. The appellate court thus erred in reversing a well-reasoned and legally sound judgment passed by the learned Civil Judge.

10. Accordingly, the present appeal is allowed. The judgment and decree passed by the learned First Appellate Court is set aside, and that of the learned Civil Judge is restored. Consequently, the suit filed by the respondent/plaintiff stands dismissed.

(VIRINDER AGGARWAL)
JUDGE

08.05.2026

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