



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-945-2025 (O&M)
Reserved on: 26.03.2025
Date of decision: 04.04.2025

SADHU SINGH AND ANOTHER

..Appellants

Versus

TAPAN KUMAR MOHANTY AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jatin Bansal, Advocate
Mr. Pankaj Bains, Advocate
Ms. Prabha Bansal, Advocate
for the appellants.

ANIL KSHETARPAL, J.

CM-3402-C-2025

1. For the reasons stated in the application for condonation of delay which is supported by an affidavit, the application is allowed.
2. The delay of 5 days in filing the appeal, is condoned.
3. CM stands disposed of.

RSA-945-2025

I. Brief facts:-

4. The defendant No.3 and 4 assail the correctness of First Appellate Court's judgment, which in turn has reversed the judgment passed by the trial Court.
5. In substance, the plaintiffs (respondents No.1 and 2 herein) were in possession of a tenanted premises leased by defendant No.1 and 2, in the year 1996.
6. In the year 1995, defendant No.1 and 2 with the help of local police officials namely defendant No.3 and 4 (appellants) in order to



forcibly dispossess the plaintiffs, took away their household articles, which even now continue to be in possession of police. This incident took place in the year 2015. The appellants are those police officials.

7. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

8. The plaintiffs claim that they belong to Odisha and started imparting coaching to students of 10+1 and 10+2, who are aspired to appear in competitive examination of PMT, IIT JEE Etc. They started Tapan Mohanty Classes in building bearing No.20489-D, located in Street No. 25-B, Ajit Road, Bathinda, which was owned by defendant No.1 and 2 in equal share. Defendant No.1 and 2 were managing the property through Sh. Mani Singh, their close relative, who let out the building at the rate of Rs.2,300/- per month in March, 1996, which was subsequently increased to Rs.4,000/- in the year 2004. The rent was regularly paid upto 31.07.2014, where the plaintiffs used to reside along with their kids. Defendant No.1 came to India in December, 2014, and expressed her desire to dispose of the property. The plaintiffs, who were residing for the last 18 years were interested in purchasing the same. Ultimately, an agreement was entered into to purchase the property for Rs.1.25 Crore. Earnest money of Rs.30,00,000/- was paid by the plaintiffs to defendant No.1 and to Sh. Kuldeep Aulakh, attorney of defendant No.2 on 20.01.2014. However, defendant No.1 and 2 did not honour the agreement. Defendant No.1 and Sh. Kuldeep Aulakh, attorney of defendant No.2 visited the house and insulted the plaintiffs and their children by using abusive and filthy language while threatening them to immediately vacate the premises and never ask for refund. The plaintiffs, who were teachers by occupation made a complaint to the police on 02.08.2014, on which no action was taken. On 02.08.2014, defendant No.1



filed a complaint in Non-Resident Indian Police Station, Bathinda, alleging that plaintiff No.1 has broke open the lock of a room in possession of defendant No.1 and allegedly stole away some of her articles. The police after probe, came to a conclusion that the complaint is false, hence, no action is required. In-Charge of the police station submitted a report to Deputy Superintendent of Police, NRI Wing, Bathinda, who after concurring with the report forwarded it to Inspector General of Police, NRI Women Cell, Mohali. In March, 2015, defendant once again came to India and lodged a complaint in Police Station, Cantt., Bathinda, where appellants were posted. On 13.03.2015, defendant No.1 and 2 along with 5-6 other desperate persons entered into the plaintiffs house on the pretext that they have to open the store to carry out the goods belonging to defendant No.1 and started threatening the plaintiffs and their family members, which was reported to the police but no action was taken. Defendant No.4 came to inquire into the matter but took no action. Plaintiff No.1 once again made a complaint to Senior Superintendent of Police, Bathinda, on which again no action was taken. In April, 2015, appellant No.1 (defendant No.4) called the plaintiffs to Police Station, Cantt., of a complaint alleging theft and pressurized them to vacate the premises. Thereafter, the plaintiffs were repeatedly called in the police station. On 19.04.2015, defendant No.4 along with other police officials picked up plaintiff No.1 from his house and took him to Police Station, Bathinda Cantt., where defendant No.1 with some other associates were present. The plaintiffs were insulted by defendant No.1 and were threatened to be locked behind the bar for illegally possessing the house and for stealing articles of defendant No.1 from her room. Plaintiff No.1 was detained in the police station for three hours, from 04:00 p.m. to 07:00 p.m. and was released late in the evening when wife of



plaintiff No.1 (plaintiff No.2) along with family friends reached Police Station, Cantt., Bathinda.

9. On 21.04.2015, defendant No.3 namely Sh. Harpreet Singh, SHO, along with defendant No.4 again called plaintiff No.1 in the police station. On 28.04.2015, defendant No.4 sent a written notice u/S 160 Cr.P.C., requiring plaintiff No.1 to appear before the Senior Superintendent of Police, Bathinda at 03:45 p.m. on 29.04.2015.

10. On 29.04.2015, defendant No.3 and 4 along with police officials came to the house of plaintiffs and took plaintiffs to the police station, where defendant No.1 and her associates were present. But neighbours and family friends intervened and the plaintiffs were released.

11. On 03.05.2015, when plaintiff No.1 was away, defendant No.1 and 2 along with certain other miscreants forcibly entered the residence and removed all almirahs, tables, books, clothes from the room of children of the plaintiffs. They broke plaintiffs laboratory in the room above porch and tried to take illegal possession but after hearing hue and cry, people gathered on the road in the neighbourhood. The police came on the spot but defendant No.1 allowed the miscreants to run away in a 'white Scorpio' vehicle but made no attempts to detain them. Ultimately, the plaintiffs contacted media. Agitated by the aforesaid step, defendant No.3 and 4 along with police officials came to the plaintiffs residence on the same night and jumped over the gate with a view to arrest plaintiff No.1, who was not present. On the next day i.e. 04.05.2015, defendant No.3 and 4 again visited the plaintiffs residence and picked up plaintiff No.2 and minor children and kept plaintiff No.2 in illegal custody and detention throughout the day, though, the minor children were left on the road. Plaintiff No.1 made best efforts and moved pillars to post to get his wife released from illegal custody of police but no



action. Ultimately, plaintiff No.1 approached learned Sessions Judge, Bathinda, who appointed Chief Judicial Magistrate as the Warrant Officer. When the CJM raided the Police Station, Cantt., plaintiff No.2 was found in illegal custody and the Chief Judicial Magistrate got her released. When the plaintiffs reached their home, defendant No.3 along with the police force reached the plaintiffs residence and arrested plaintiff No.1, who was kept in lockup at Police Station, Cantt., for the night. During detention, plaintiff No.1 was harassed and humiliated. Next morning, plaintiff No.1 was produced in the Court of 'Illaqa' Magistrate. The request for police remand was refused. Then, the plaintiffs filed bail applications and arrest of plaintiff No.2 was stayed. In retaliation, the name of plaintiff No.2 was also added in FIR No.35. On 07.05.2015, when plaintiff No.1 went to his house to take his clothes, he noticed that some unknown persons were sitting there, who broken the signboard of the plaintiffs institute, installed near the entry gate. Complaint was made to defendant No.3, but no action. Subsequently, on the intervening night of 06/07.05.2015, defendant No.1 and 2 along with their supporters in connivance with defendant No.3 and 4 broke open the locks of the house and removed the entire household goods and articles belonging to the plaintiffs including their study material, household articles, furniture, utensils, beddings, refrigerator, valuables, books, cash, jewellery etc. Even school books and uniforms of the children were taken away and they were unable to attend their school and take examination. Thus, the plaintiffs filed suit for mandatory injunction and damages. Defendant No.1 and 2 admitted execution of the agreement to sell on receipt of Rs.30,00,000/-. Defendant No.3 and 4 filed the joint written statement claiming that the suit is not maintainable against them and the plaintiffs can take away all the articles, which were lying the police station. The police came up with a story that the



household articles were taken away by Sh. Ram Lal, Sh. Pappu and Sh. Kalu, which was subsequently recovered.

II. Reasons recorded by the Courts below:-

12. The trial Court dismissed the suit, however, the First Appellate Court decreed the suit. It has been found that the plaintiffs are entitled to the restoration of possession of the house as well as their household articles. With regard to damages, it has been held that damages on account of loss of reputation, it would not be appropriate to record any finding as a criminal case is pending, however, the Court granted Rs.10,00,000/- on account of mental agony and unnecessary harassment.

13. It was also ordered that the plaintiffs are entitled to restoration of their entire belongings and if the articles are not in a position to be restored, the plaintiffs were held entitled to Rs.20,00,000/-. For mental agony and harassment Rs.10,00,000/- damages were awarded.

III. Arguments addressed:-

14. This Bench has heard the learned counsel representing the appellants at length and with his able assistance perused the paperbook.

15. Learned counsel for the appellants contend that they are police officials and they acted in discharge of their duties. Moreover, the application filed by the plaintiffs to summon the appellants as accused in a criminal case has been dismissed. He further contends that the First Appellate Court has erred in relying upon the report submitted by the Chief Judicial Magistrate.

IV. Analysis and Discussion:-

16. This Court has considered the submissions of learned counsel for the appellants.

17. The appellants have also filed an application for permission to lead additional evidence in order to produce copies of FIR No.35 dated



04.05.2015 and 65 dated 29.07.2015, along with daily orders passed by the Court in a criminal case.

18. It is evident that serious allegations have been levelled against the appellants by the plaintiffs, which have been found to be correct by the First Appellate Court upon re-appreciation of evidence. The appellants have acted in a biased manner. On the one hand, they failed to take action when the plaintiffs made repeated complaints, whereas, on the other hand, they helped the individual namely defendant No.1 and 2, who had broken the law. The report submitted by the Chief Judicial Magistrate clearly proves that plaintiff No.2 was illegally detained in the police station by the appellants.

19. Moreover, the appellants were instrumental in pressurizing the plaintiffs to vacate the premises. In fact, the appellants encouraged illegal action on the part of defendant No.1 and 2. Hence, the appellant cannot claim that they are innocent.

20. The appellants were not discharging their official duty while illegally detaining plaintiff No.2 and helping defendant No.1 and 2. Hence, the plaintiffs cannot claim protection by pleading 'discharge of their official duty'.

21. The last submission also does not have substance because the Court has only dismissed application under Section 319 Cr.P.C. to summon the appellants as additional accused. Hence, that order would not help the appellants. Though, the learned counsel for the appellants has not pressed the application for additional evidence, however, the same lacks merit. The appellants are seeking to produce copies of two FIRs and certain daily orders passed by the Court in a criminal case, however, FIR is only an information given to the police by defendant No.1 and 2. The allegations



made in the complaint are yet to be proved.

22. The First Appellate Court has analyzed and evaluated the evidence in a proper manner. The interference in second appeal is not permissible unless the attention of the Court is drawn to any substantive misreading or non-reading of evidence or perversity in the view taken by the lower Court. The First Appellate Court's judgment is fair, equitable and justified, hence, no ground to interfere is made out.

IV. Decision:-

23. Keeping in view the aforesaid discussion, the appeal is dismissed.

24. Let a copy of the judgment be forwarded to Home Secretary, Punjab, for information and necessary action.

25. All the pending miscellaneous applications, if any, are also disposed of.

04th April, 2025

Ayub

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No