



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
111 **RSA-4565-2018 (O&M)**
Date of decision: 24.03.2025

Meharban Singh @ Meharwan Singh **...Appellant(s)**

Vs.

Suman Sharma **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Parvinder Singh, Advocate for the appellant.

NIDHI GUPTA, J.

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff for recovery of damages to the tune of Rs.5 lacs (Rs.2 lacs for loss of reputation; Rs. 2 lacs for mental tension and harassment; and Rs. 1 lac towards expenses incurred in defending the matter), has been dismissed by both the Courts below.

2. Learned counsel for the appellant submits that the plaintiff had purchased a property vide registered Sale Deed dated 10.05.1996. In 2008, the plaintiff went to Canada and even in 2009 he was in Canada. It was alleged in the plaint, that the defendant had illegally encroached upon some portion of the property of the plaintiff; and when relatives of the plaintiff had tried to stop the defendant, the defendant had lodged a false complaint dated 01.10.2009 against the plaintiff upon which a false FIR No. 118 dated 09.10.2009 was registered under Sections 448 and 511 IPC at Police Station Rahon despite the fact that the plaintiff was not in India at the time. It was further averred that the said FIR was circulated in



the area and also published on the website of the Punjab Police due to which the plaintiff remained under tremendous mental tension. Due to the registration of the FIR, the plaintiff had to travel to India after leaving his job in Canada. Subsequently upon investigation, allegations in the FIR are found to be false and finally, vide cancellation report No. 644 dated 17.11.2009 (Ex.P4), the said FIR was cancelled. The matter was also inquired by District Revenue Officer, Nawanshahr who also found act of defendant to be wrong. It is submitted that accordingly the plaintiff had filed the present suit for recovery of damages as above.

3. It is contended that the learned Courts below are in error in non-suiting the plaintiff as they have failed to appreciate the above facts. It is accordingly prayed that the judgments and decrees of the learned Courts below be set aside.

4. No other argument is raised on behalf of the appellant/plaintiff.

5. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

6. At the very outset, it may be pointed out that the present appeal pertains to the year 2018 and notice has not yet been issued in the matter as the same has been adjourned at request of learned counsel for the appellant on 05.07.2022, 21.07.2023, 17.08.2023, 16.11.2023, 30.01.2024 and 14.10.2024; and due to non-appearance of learned counsel for the appellant on 09.01.2020, 18.03.2020, 10.07.2023.



7. I find no merit in the submissions made on behalf of the appellant/plaintiff. Perusal of the record of the case shows that it was the case of the defendant before the learned Courts below that she had purchased a plot measuring 2 marlas 5 sarsahis from one Vinod Kumar vide Sale Deed dated 27.08.2009; who (Vinod Kumar) had purchased the said plot from one Sohan Lal vide registered Sale Deed dated 09.03.2005. The municipal record also reflected the name of the said Sohan Lal; and even the sewage and water connection were obtained by Sohan Lal. On the basis of evidence brought on record by the parties, it has been found by both the Courts below that the respective plots of the parties were separate entities with separate boundaries. Therefore, it was held that the defendant had full right to protect her possession over the property purchased by her.

8. The learned Courts below further found that in FIR No. 118 dated 09.10.2009 registered under Sections 448 and 511 IPC at Police Station Rahon (Ex.P3) the defendant had levelled allegations only against Gurdev Kaur mother-in-law of the plaintiff, as she had tried to interfere in the construction being raised by the defendant upon her plot. It has not been denied by the appellant that not a word of allegation was levelled by the defendant either in the complaint, or even in the FIR against the plaintiff.

9. In this regard, learned counsel for the plaintiff has submitted that the police would not have arrayed the plaintiff as accused in the FIR except at the instance of the complainant/defendant. However, the said argument is unfounded as admittedly, the defendant has not named the



plaintiff in the complaint filed by her. It is an admitted fact that the plaintiff was not in India when complaint was filed by the defendant. As such, there was no reason or occasion for the defendant to level any allegation against the plaintiff. This fact has been admitted by the plaintiff in his cross-examination as PW1 that the defendant had moved complaint/application only against Gurdev Kaur. Even in the inquiry report dated 17.11.2009 (Ex.P4) submitted by the Superintendent of Police (City) SBS Nagar it is recorded that the complaint was made by the defendant only against Gurdev Kaur. Moreover, the plaintiff had failed to show any harassment or loss of reputation has been caused to him after registration of the FIR. Even it was not proved that publication of FIR on the website of the Punjab Police had caused any loss of reputation to the plaintiff.

10. Moreover, 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: 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, (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 a judgment of the Mysore High Court in “**Bolandauda Pemmaya & Another Vs. Ayaradara Kushalappa**” Law Finder Doc ID # 325776; of Privy Council (From Calcutta) in “**Mohamed Amin Vs. Jogendra Kumar Bannerjee & Others**” Law Finder Doc ID # 283054; and of Delhi High Court in “**K.B. Mathur & Another Vs. Sh. Sheel Kumar Saxena & Another**” Law Finder doc Id # 44511. In the present case, admittedly, the plaintiff was never prosecuted. 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 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.

11. Learned counsel for the appellant/plaintiff is unable to dispute or controvert the above said facts and findings.

12. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present regular second appeal is hereby **dismissed**.

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

24.03.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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