

(2012) 06 P&H CK 0027

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 3616 of 2011 (O and M)

Jagdish Sahai

APPELLANT

Vs

Raunak Ram and Others

RESPONDENT

Date of Decision : 01-06-2012

Acts Referred:

Citation : (2013) 1 ACC 193 : AIR 2012 P&H 142

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Advocate : Jatinder Singla, for defendant No. 4, for the Appellant; Raunak Ram, Respondent No. 1 in person, for the Respondent

Final Decision : Dismissed

Judgement

Jaswant Singh, J.—Defendant no. 4/appellant is in second appeal against judgment and decree dated 09.06.2011 passed by the learned Additional District Judge, Sangrur whereby appeal filed by the plaintiff/respondent no. 1 Raunak Ram was decreed while awarding Rs. 1 lac as compensation against defendant no. 4/appellant and the findings of the learned Additional Civil Judge (Senior Division), Sangrur vide its judgment and decree dated 04.06.2008 were reversed. Brief facts for proper adjudication of the case in hand are that the plaintiff alleges himself to have been appointed as manager of the Sangrur District Wholesale Cooperative Supply Marketing Society Limited at its Bhawanigarh branch in the year 1968 and filed the present suit by stating that his services were illegally terminated. On representation made by the plaintiff, his matter was ultimately referred for adjudication to an arbitrator and the Arbitrator Tribunal decided the matter in his favour. Obeying the decision of the arbitrator, managing committee of the society decided to reinstate the plaintiff and to pay him all the back benefits of the service. It was further alleged that the resolution qua this effect was adopted on 24.12.1992 and thereafter the plaintiff joined the service on 26.12.1992. However, the defendants in connivance with the officials of the cooperative society, in order to give benefit to one Hardeep

Singh son of Jagroop Singh tampered with the proceedings of the society and then manipulated to withheld records of the society and finally on 23.2.1993, V.K. Bansal passed a wrong order so as to cancel the resolution dated 24.12.1992 adopted by the managing committee of the society. It was alleged further that defendant nos. 5 to 1, in order to deprive the plaintiff of the services as manager of the society got a false FIR registered against the plaintiff and after a long trial the plaintiff was acquitted of the charges by the Additional Chief Judicial Magistrate, Sangrur vide his judgment dated 2.12.2002. Thus the plaintiff has filed the present suit by stating that he was maliciously prosecuted and due to this prosecution he had to suffer great trauma and hence he had sought compensation to the tune of Rs. 10 lacs for malicious prosecution and monetary loss and expenses incurred by him on defending the false criminal case.

2. Upon notice a joint written statement was filed by defendant nos. 1 to 5 whereby preliminary objections were raised by stating that the suit was false and fictitious and the plaintiff had suppressed material facts from the court. On merits defendants have alleged that the plaintiff was recruited as a clerk on temporary basis in the year 1968. His services were rightly terminated for embezzlement of funds of the society. Arbitrator had never exonerated him but had found him guilty and had passed the award against him. He was never promoted as manager of the society. The plaintiff never fulfilled the prescribed qualification for the post of manager ever and, therefore, his name was never recommended to the post. It was stated that the plaintiff by way of illegal means got the resolution dated 24.12.1992 passed in his favour and in fact that the resolution dated 24.12.1992 was cancelled. The plaintiff had filed the civil suit but he remained unsuccessful uptill the High Court. It was because that plaintiff Raunak Ram was not making available resolution book and the employment letter that the FIR was got registered against him as well as one Balwinder Singh. It was alleged that the state had not properly proceeded with the case against the plaintiff and it was for this reason that in this FIR Raunak Ram was acquitted. Remaining allegations were denied and prayer was made for dismissal of the suit.

3. Defendant no. 6 did not come present and he was proceeded against ex-parte by the learned trial Court.

4. From the pleadings of the parties issues were framed. Both the sides led their respective evidence in support of their claims. After appreciating the evidence of both the sides, the trial Court dismissed the suit vide judgment and decree dated 04.06.2008 and the findings of the trial Court have been reversed in appeal vide learned lower Appellate Court's judgment and decree dated 09.06.2011. Hence the present second appeal.

5. I have heard learned Counsel for appellant/defendant no. 4 as well as respondent/plaintiff Raunak Ram in person and have gone through the record of the case very carefully with their able assistance.

6. Learned Counsel for the defendant no. 4/appellant has argued that it was under the official capacity that the FIR was registered by him against the plaintiff. It was further argued by the learned Counsel for the appellant that proceeding book maintained by the society did not contain any alleged resolution dated 24.12.1992 regarding reinstating the plaintiff or promoting him as manager, copy of which is produced by him showing it as the copy of the resolution passed by the society in the proceeding book maintained by the society and thus all these circumstances proved that the resolution dated 24.12.1992 is a, forged and fabricated document as a result of manipulation by conniving with the then Chairman of the society Balwinder Singh.

7. On the other hand plaintiff/respondent no. 1 Raunak Ram has appeared personally and submits that great injustice had been done to him and the compensation that has been granted is rather on the lower side. He has further argued that the resolution was passed validly by a Vice Chairman of the Cooperative Society and further that the criminal court had found that the document was never forged or fabricated by him. In such a scenario the allegations levelled against him and the persecution that he had to face for such a long time has been rightly appreciated by the learned lower Appellate court and the present second appeal deserves to be dismissed.

8. After hearing learned Counsel for the appellant and the respondent no. 1 in person this Court is of the considered view that the present appeal deserves to be dismissed. A bare perusal of the paper book would reveal that the learned lower Appellate Court in para no. 20 of its judgment dated 09.06.2011 has reproduced the extract of judgment dated 02.12.2002 whereby it has been clearly stated that offence, if any, was committed by Balwinder Singh, Vice President or by the other members of the society but not at all by the respondent no. 1 Raunak Ram. The relevant portion of this para is reproduced herein below:-

So, from the above said evidence on file, it is clear that resolution Ex. PW -8/D and the office order Ex. PW -2/1 were never forged by accused Raunak Ram. The fact remains that office order Ex. PW -2/I was signed by Balwinder Singh and resolution Ex. PW -8/D was signed by Balwinder Singh, Vice President and Ram Singh, Jit Singh and Hardy Singh, members and it is a different matter that said resolution was got signed from Ram Singh, Jit Singh and Hardy Singh by playing fraud upon them by Balwinder Singh, Vice President. It is still another thing that said resolution was not legal one. If any offence has been committed, the same has been committed either by Balwinder Singh, Vice President or by Jit Singh, Ram Singh and Hardy Singh, members, but not at all by the accused Raunak Ram. So, when no such resolution and letter has been forged by the accused, no question of using the same by the accused knowing the same to be forged one arises.

Thus it becomes amply clear that defendant no. 4/appellant had rushed to the police without there being any worthwhile reason to do so. Defendant no. 4/appellant did not have any expertise to be able to know that the resolution was

forged much less by Raunak Ram. No opinion of any handwriting expert was sought before lodging the FIR. He did not even bother to inquire about the matter from the person from whom truth of matter could be worked out.

9. Learned Lower Appellate Court has clearly stated that no evidence was collected by the investigating agency with regard to forgery of resolution being the handwork of Raunak Ram, defendant no. 4/appellant Jagdish Sahai, still went on to say before the learned trial Court that the resolution was forged by Raunak Ram. No reason whatsoever could be pointed out even before this Court as to why such a hurry was made by an official to get an FIR registered against a person qua whom there was no concrete fact of forgery. It can be conclusively presumed here that this appellant was hell bent to cause injury to the plaintiff in one manner or the other and it was due to this vengeance that the plaintiff had to suffer a criminal trial for number of year altogether. In such a scenario this Court is of the opinion that the learned Lower Appellate Court has rightly granted the compensation of Rs. 1 lac to the respondent Raunak Ram from the pocket of the defendant no. 4/appellant. The learned lower Appellate Court has enumerated various circumstances which I have gone through the paper book, that leaves no manner of doubt that this plaintiff had to go through serious trouble during that period to get justice for himself. Therefore, there is no merit in the argument raised by the learned Counsel for the appellant. In view of the above, I do not find any infirmity in the judgment and decree passed by the learned lower Appellate Court and the same is hereby affirmed and the present second appeal is hereby dismissed.