

**IN THE COURT OF MS. KIRAN GUPTA
ADDITIONAL DISTRICT JUDGE -01
SOUTH WEST DISTRICT, DWARKA COURTS
NEW DELHI**

**RCA CIVIL DJ ADJ No. 79/2022
CNR No. DLSW01-010256-2022**

**Mange Ram Rana
s/o. Late Sh Pyare Lal Rana
r/o. H No. 848, VPO Ghevra
Delhi.**

.... Appellant

Versus

**Insp Kishore Pandey
Posted at Rashtrapati Bhawan
New Delhi.**

.....Respondent

Date of Institution	:	30.09.2022
Date of conclusion of Arguments	:	21.03.2023
Date of Judgment	:	27.03.2023

ORDER

1. The present appeal is against the order dated 15.07.2022 passed by Ld Civil Judge,

South West Dwarka, vide which, she had rejected the suit of the plaintiff/ appellant under Order VII Rule 11 CPC being without any cause of action. The parties shall be referred in the appeal as they were referred before the Ld Trial Court.

2. The case of plaintiff is that, his daughter-in-law filed a complaint of dowry demand against him on 05.04.2006. On the said complaint, no action was warranted by CAW cell, Nanakpura and it was closed on 12.05.2006. Despite this, Sh. Gurvinder Rana(his son) supplied some irrelevant and fake documents to the IO/ defendant Kishore Pandey on which FIR No.817/2006 was registered on 02.08.2006 against him and his family members. He faced trial for 13 years and also remained in judicial custody for 13 days. Ultimately, vide judgment dated 30.01.2019, he was acquitted. He filed the suit before the Ld Civil Judge seeking damages for the amount of Rs. 1,00,000/- against the

defendant who was one of the IO in FIR No. 817/2006.

3. The defendant in his application under Order VII Rule 11 CPC took various pleas, one plea being that suit is without any cause of action. The Ld Civil Judge vide order dated 15.07.2022 rejected the plaint of the plaintiff being without cause of action.
4. It is submitted by Ld counsel for plaintiff/appellant that the impugned order has been passed without appreciating the facts and material available on record. The Ld Trial Court failed to consider the noting of CAW cell that no case is made out and closed the inquiry. It is prayed that the impugned order be set aside and the case be remanded back to the Ld Civil Judge for disposal as per law.
5. Per contra, it is argued by Ld counsel for defendant/ respondent that defendant was neither the first IO nor the last IO who filed the

chargesheet. The plaintiff had not made his daughter-in-law, her husband(his son), the first IO and the IO who filed the chargesheet as party in the suit. It is submitted that the defendant being one of the IO had done his work/ duty in official capacity. There is no finding by the concerned Court in the judgment of acquittal against the defendant that there was any dereliction of duty on behalf of defendant. It is further submitted that there is no infirmity in the order dated 15.07.2022. It is prayed that the appeal be dismissed.

6. In rebuttal, it is submitted by Ld counsel for plaintiff/ appellant that defendant who was examined in FIR No.817/06, PS Najafgarh, had given the statement on oath on 13.11.2018 that after recording the statement of witnesses, he prepared the chargesheet and filed the same before the Court. It is submitted that it is the defendant who despite the specific noting of CAW cell, that no offence is

made out against the father-in-law/ appellant and that the complaint be filed, still prepared the false chargesheet and the appellant had to face trial for 13 years. He has also relied upon the judgment titled as *Gurvinder Singh vs. Harvinder Singh reported as 2022 Live Law (SC) 963* in support of his arguments.

7. Heard counsels for the parties and perused the appeal file as well as the trial court record. It is no more *res integra* that while deciding the application under Order VII Rule 11 CPC, the facts as stated in the plaint are germane. The Court has to look only into the plaint and cannot look into the defence of defendant. Essentially, whether the plaint discloses any cause of action, is a question of fact which has to be gathered on the basis of averments made in the plaint in its entirety taking those averments to be correct.

8. I have perused the entire plaint. The appellant/ plaintiff has not averred even a

single plea as to how he is aggrieved by the conduct of the defendant who was one of the IO in the FIR. He in the entire plaint has not detailed the documents which he is relying upon. Though during arguments, the Ld counsel for appellant relied upon the statement of defendant in FIR, however there is no such plea in the entire plaint. Even if, it is considered that defendant had filed the chargesheet, he had filed the same in his official capacity. There is no plea that he acted in malicious or illegal manner in filing the chargesheet. Ld counsel for appellant has further contended that he had moved an application seeking amendment of plaint and in the amended plaint, the cause of action is clearly depicted.

9. I have perused the entire trial court record. Undoubtedly, there is one application filed by the plaintiff seeking amendment in the plaint, however, on careful perusal of the various orders passed by the Id Trial Court, it is

evident that the said application was never pressed by the plaintiff. Even in the memorandum of appeal, no objection qua non-deciding of Order VI Rule 17 CPC application has been taken by plaintiff/ appellant, hence the argument of Ld counsel for appellant in this regard is misconceived and not tenable.

- 10.** Now coming to the judgment relied by Ld counsel for appellant, the same is not applicable to the peculiar facts and circumstances of the case as in the present case, the plaint has been rejected on the ground that it does not disclose any cause of action and not on the ground that the plaintiff is not entitled for any relief. The entire plaint is silent on the aspect of cause of action. The Ld Civil Judge, after considering the averments made in the plaint has rightly held that the defendant was acting only as per the directions of the then SHO and was only one of the IOs who handled the investigation of the case. There is no infirmity in the order dated

15.07.2022. The same is upheld. **The appeal being devoid of any merit is dismissed. Appeal file be consigned to record room. TCR be sent back to the concerned Court.**

**Announced in open
Court on 27.03.2023**

**KIRAN GUPTA
Additional District Judge-01
South West District
Dwarka Courts, Delhi**