

**IN THE COURT OF SHRI BHARAT AGGARWAL, LD. CIVIL JUDGE**

**- 02**

**WEST DISTRICT, TIS HAZARI COURTS, DELHI**

**SUIT NO.611398/2016**

Sh. Kul Narain

S/o Late Sh. Shiv Lal Pandit

R/o House No.79, Gali No.7,

Sainik Vihar, Mohan Garden,

New Delhi

.....**PLAINTIFF**

**VERSUS**

1. Sh. Dhruv Kumar  
R/o C-291, Camp No.4,  
Jawala Puri, Delhi
2. Sh. Santosh  
S/o Sh. Dhruv Kumar  
R/o C-291, Camp No.4,  
Jawala Puri, Delhi
3. Sh. Sushil  
Sh. Dhruv Kumar  
R/o C-291, Camp No.4,  
Jawala Puri, Delhi
4. Sh. Mithlesh  
Sh. Dhruv Kumar  
R/o C-291, Camp No.4,  
Jawala Puri, Delhi

.....**DEFENDANTS**

**Suit filed on – 21/12/2015**

**Judgment Reserved on – 30/07/2020**

**Date of decision – 17/08/2020**

**SUIT FOR DAMAGES/COMPENSATION OF RS.2,00,000/- AND  
PERMANENT INJUNCTION**

**JUDGMENT: -**

By this judgment, I shall adjudicate a suit for damages/compensation of Rs.2,00,000/- and for permanent injunction filed by the plaintiff against the defendants. Before adjudicating upon the issues framed in the present suit, it is necessary to state the pleadings in the present suit concisely.

**Pleadings of the plaintiff :-**

1. Present suit has been filed by the plaintiff against the defendants seeking damages/compensation to the extent of Rs.2,00,000/- alongwith the interest @18% per annum and a decree of permanent injunction restraining the defendants from having any sort of communication either by personal, writing, oral or telephonic with the plaintiff. It is the case of the plaintiff that he is a senior citizen and his son got married with the daughter of the defendant no.1 on 11/05/2005 and since thereafter the daughter of the defendant no.1 has been causing troubles in the life of the plaintiff. It is stated that defendants used to pressurize the plaintiff to transfer Rs.10 Lakhs in the bank account of the daughter of the defendant no.1 and upon plaintiff's refusal, the daughter of the defendant no.1 used to quarrel with the plaintiff. It is stated that defendants misbehaved with the plaintiff and his old wife and on 03/08/2014, the defendants came to the house of the plaintiff in a drunken state with some goons and started mishandling the plaintiff. Thereupon, the

plaintiff and his son were booked in a false case u/s 107/151 of Cr.P.C. in connivance with the police officials and were sent to custody. It is stated that on the same night i.e. on 03/08/2014 the defendants alongwith Smt. Sangeeta i.e. the daughter of the defendant no.1 took advantage of non-availability of the plaintiff and took possession of the jewelry and costly cloths including the jewelry of the wife of the plaintiff and further threatened the plaintiff to implicate him in false criminal cases. It is stated that next day the plaintiff and his son were released on bail by the court of Special Executive Magistrate and the medical legal report/MLC showed that there was no sign of any external injury.

It is further stated that on 17/02/2015 defendant no.1 threatened the plaintiff with dire consequences by stating that they will again come to the house of the plaintiff and implicate him in false cases and due to the continuous illegal acts of the defendants, the plaintiff's image and reputation is lowered down in the eyes of the general public and it will give little solace to the plaintiff if the defendants be directed to pay Rs.2,00,000/- as damages/compensation to the plaintiff. In these circumstances, the present suit seeking damages/compensation and permanent injunction has been filed on behalf of the plaintiff.

**Pleadings of the defendants :-**

2. The defendants have filed a common written statement wherein *inter alia* they stated that plaintiff is taking advantage of his own wrongs as plaintiff and his family members tried to kill the daughter in law of the plaintiff i.e. Smt. Sangeeta Devi by burning her on 20/10/2013 and by not providing adequate and proper medical help. It is further alleged that the plaintiff did not allow the parents and relatives of Smt. Sangeeta to meet her for at least four months after she suffered burnt injuries in the house of the in-

laws. It is stated that on 03/08/2014 the defendants came to meet Smt. Sangeeta when they got to know about the fact of plaintiff's attempt of burning her and, therefore, the defendants called the police and the police personnel warned the plaintiff and his family members that if they would continue to threaten the defendants they would have to book them u/s 107/151 of Cr.P.C. It is further stated that the plaintiff cannot now institute a civil suit for damages/compensation of Rs.2,00,000/- and, therefore, the suit is liable to be dismissed. It is further stated that all the jewelry and stridhan of Smt. Sangeeta is in possession of the plaintiff and the family members and a case u/s 498A/406 IPC has already been registered in Police Station Mian Wali Nagar. On these grounds it is prayed that the suit of the plaintiff be dismissed.

3. Replication has also been filed on behalf of plaintiff to the written statement of defendants wherein the averments made in the written statement were denied and those made in the plaint were reiterated and reaffirmed. Further, in the replication it was submitted that due to the acts of the defendants the prestige and image of the plaintiff was lowered in the eyes of the general public. It was stated that on 16/01/2016 the daughter of the defendant no.1 Smt. Sangeeta at about 2.00 P.M. approached the suit property and started abusing the plaintiff and his family and, therefore, a call to the police was made again.

**Issues :-**

4. From the pleadings of the parties, following issues were framed in the suit vide order dt.08/08/2016: -

- (a) Whether the plaintiff is entitled for the money decree as prayed for alongwith interest, if yes, then at what rate

- and for which period? OPP
- (b) Whether the plaintiff is entitled for decree of permanent injunction as prayed for? OPP
- (c) Whether the suit is not maintainable being time barred? OPD
- (d) Relief.

**Evidence :-**

5. In order to prove his case, plaintiff got examined himself as PW-1 and led his evidence by way of affidavit which is Ext. PW-1/A wherein he reiterated the averments made in the plaint. PW-1 also relied upon a document i.e. Mark-A being the Kalandra in respect of the case registered u/s 107/151 Cr.P.C.

Thereafter Smt. Lalmati Devi, who is the wife of the plaintiff, was examined as PW-2 and led her evidence by way of affidavit which is Ex. PW-2/A. She reiterated the contents of the plaint and relied upon a complaint dt 06/10/2013 made by her and also another complaint made by her on 19/09/2013 to the National Commission for Women regarding the acts of her son and daughter in law, which are identified as Mark-B.

Several opportunities were given to the defendants to cross-examine the plaintiff's witnesses, however, as the defendants' failed to cross-examine both the witnesses. The right of the defendants to cross-examine the plaintiff's witnesses was closed vide order dt.01/05/2017. Further, thereafter as the defendant no.1 died during the pendency of the proceedings the suit stood abated against the defendant no.1 and his name was deleted from the array of the parties vide order dt.02/04/2018. Since despite several opportunities the defendants failed to lead any evidence, the right of the

defendants to lead evidence was closed vide order dt.23/07/2018.

**Decision with reasons :-**

6. The arguments were heard on behalf of plaintiff. Defendants failed to advance arguments despite opportunity. The record has been carefully perused. Now, I shall give my issue-wise findings which are as under: -

7. **Issue No.(c) -**

**(c) Whether the suit is not maintainable being time barred? OPD**

The onus to prove this issue was upon the defendants.

The present suit was filed on 21/12/2015 on the basis of the alleged acts of the defendants on 03/08/2014 and 17/12/2015 when the Defendants allegedly extended threats to the Plaintiff. It appears that the plaintiff has simply filed the present case in retaliation to the defendants acts which had also led to the admitted arrest of the plaintiff on 03/08/2014 and for threats made by the Defendants in respect of which the Plaintiff has sought permanent injunction. No particular arguments were made, as far as this issue is concerned, by the defendants. In fact, despite repeated opportunities the defendants did not appear to advance any arguments in the present case.

Accordingly, this issue is decided against the defendants and in favour of the plaintiff.

8. **Issue No.(a) and (b) -**

**(a) Whether the plaintiff is entitled for the money decree as prayed for alongwith interest, if yes, then at what rate and for which period? OPP**

**(b) Whether the plaintiff is entitled for decree of permanent injunction as prayed for? OPP**

The onus to prove these issues was upon the plaintiff.

The present suit is primarily a result of the discord between the plaintiff's family and the daughter of the defendant no.1 who was married to the plaintiff's son. It is alleged by the plaintiff that right after the marriage of the plaintiff's son with the daughter of the defendant no.1, there were several problems created at the instance of the defendant no.1. It is further alleged that as the plaintiff did not meet the illegal demands of the defendants of Rs.10 Lakhs, the defendants came to the house of the plaintiff on 03/08/2014 which led to the arrest of the plaintiff and his son u/s 107 and 151 Cr.P.C. and on the same day the defendants took possession of certain jewelry and costly clothes from the plaintiff's house. On the other hand, it is stated by the defendants that the plaintiff tried to kill her daughter in law i.e. Smt. Sangeeta Devi on 20/10/2013 and due to plaintiff's unjustified and illegal conduct towards his daughter in law, he got arrested and, therefore, the present suit for damages/compensation or injunction is not maintainable.

Upon comprehensive perusal of the plaint and documents in the present suit, it appears that the plaintiff's grievance primarily arises out of the arrest of the plaintiff and his son on 03/08/2014 u/s 107 and 151 Cr.P.C. It is trite law that mere arrest of a person at the behest of the complainant does not entitle the person to seek compensation/damages from the complainant. Any person has the right to inform the happening of a crime to the police authorities and to set the criminal law in motion. Merely because the plaintiff and his son were granted bail on the next date i.e. 04/08/2014 after arrest, by the Special Executive Magistrate, does not entitle him to the grant of any compensation. Needless to say, that mere grant of bail would not mean that

no offence in fact was committed and the complaint was malafide or made only with the intend to lower the reputation and esteem of the plaintiff in the eyes of the general public. Even otherwise, the plaintiff has not been successful in leading substantial evidence to show that there was any sought of malicious prosecution of the plaintiff at the behest of the defendants.

In the considered opinion of this court, the plaintiff is also not entitled to grant of permanent injunction as the plaintiff has miserably failed to show any rights in respect of any property in respect of which the injunction is claimed. It is trite law that a person who approaches the court of law seeking a particular relief is duty bound to substantially prove all the allegations with the support of evidence and upon failure to do so the person would not be entitled to any relief.

In view of the aforesaid observations, the issue no.(a) and (b) are hereby decided in favour of the defendants and against the plaintiff.

9. **Issue no.(d) -**

**(d) Relief –** In view of the findings given on issues no.(a) to (c), documents placed on record, pleadings of the parties and evidence led by the parties, the plaintiff has failed to prove his case on the scale of preponderance of probabilities. Accordingly, the suit of the plaintiff is hereby dismissed.

Decree sheet be prepared accordingly. File be consigned to record room after completing the necessary formalities.

(BHARAT AGGARWAL)

Civil Judge, Delhi (West)-02

Pronounced, through video conferencing through Cisco Webex Application, on 17/08/2020.