

Radhe Lal Vs. Munnoo

Radhe Lal Vs. Munnoo

SooperKanoon Citation : sooperkanoon.com/462867

Court : Allahabad

Decided On : Jan-15-1913

Reported in : 18Ind.Cas.280

Judge : George Knox, J.

Appellant : Radhe Lal

Respondent : Munnoo

Judgement :

George Knox, J.

1. This second appeal arises out of a case instituted by one Munnoo, who brought a suit in which the prayer for relief is that Rs. 100 on account of damages may be awarded against the defendant. In the plaint, he set out that the defendant out of enmity had lodged a false complaint against him without any reasonable and probable cause in a Criminal Court under Sections 323 and 355 of the Indian Penal Code. The complaint was dismissed by the Criminal Court without any charge being framed. Both the Courts decreed the claim. The lower Appellate Court found that the evidence adduced by the defendant in support of the alleged assault and causing hurt was worthless and that the complaint in the Criminal Court was false. It considered the amount assessed as damages very reasonable. In appeal here, it is contended as there has been no finding by the Court below that the case was one for malicious prosecution, the claim ought to have been

dismissed. There is also no finding that the complaint was not reasonable and probable cause. The learned Counsel for the appellant maintained that before damages could be decreed in a suit of this nature, there must be a finding that the prosecution was malicious and there was reasonable and probable cause for the complaint. In support of this, he cited a passage from Halsbury's Laws of England and also the case of Pestonji Muncherji Modi v. Queen Insurance Company 25 B. 332; (P.C.); 2 Bom. L.R. 938; 4 C.W.N. 781. The facts of that case differ very much from this. It has been laid down in this Court in the case of Hira Lal v. Bandhu Bhagat A.W.N. (1889) 189 that where the charge is one which must have been true or false to the defendant's knowledge and in which there could be no mistake on his part, no question of reasonable or probable cause arises. Bringing of a charge false to the knowledge of the prosecutor imports in law malice sufficient to support a civil action. There is a previous case, Weatherall v. Dillon (1874) 6 N.W.P.H.C.R. 200 The learned Judges who decided that case were Judges of considerable skill and experience in English Civil Law and yet found themselves able to rule on the same lines as the Chief Justice Sir John Edge in Hira Lal v. Bandhu Bhagat A.W.N. (1889) 189. The appeal fails and is dismissed with costs.