2026:DHC:7577

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on: 20.08.2026***
Judgment pronounced on: 07.09.2026

\# **CNR No. DLHC010390312026**

\+ CMI 18/2026, CM APPL. 56322/2026 (For permission to file regular first appeal by the appellant being an indigent person), CM APPL. 56323/2026 (Ex. From filing certified copy of the annexures) & CM APPL. 56324/2026 (Delay of 25 days in filing the petition)

S.P. TANTI .....Appellant
Through: Appellant in person.

versus

UNION OF INDIA AND ANR .....Respondents
Through: Ms. Kangan Roda, SPC and Mr. Nipun Jain, GP along with Ms. Apoorva Sharma, Advocate for Respondent No. 1/UOI.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present **Regular First Appeal**[1] has been filed under Section 96 read with Order XLIV Rule 1 of the **Code of Civil Procedure, 1908**[2], assailing the **Judgment and Decree dated 27.04.2026**[3] passed by the **learned District Judge-06, South District,**

[1] Appeal
[2] CPC
[3] Impugned Judgment

Saket Courts, New Delhi[4] in **CS DJ No. 59/2019**[5], titled *"S.P. Tanti v. Union of India & Anr."*, whereby the Recovery Suit filed by the Appellant seeking recovery of a sum of Rs. 1,99,00,000/- towards damages on account of alleged malicious prosecution, loss of reputation, mental agony and other consequential losses came to be dismissed.

2. For the sake of convenience and to avoid any ambiguity, the parties shall hereinafter be referred to by their nomenclature before this Court, i.e. as the Appellant and the Respondent, respectively.

3. The present Appeal, being a fresh institution, came up for its initial hearing and, with the consent of the Appellant, appearing in person and learned counsel appearing on behalf of the Respondent, was taken up for final disposal.

BRIEF FACTS:

4. The brief facts necessary for adjudication of the present Appeal are set out hereinbelow:

a) The Appellant had applied for appointment to the post of Public Prosecutor in the **Central Bureau of Investigation**[6] against a vacancy reserved for a member of the Scheduled Caste category. In support of his claim to the said category, the Appellant relied upon **Caste Certificate No. 216 dated 25.02.1992**[7] stated to have been issued by the competent authority at Anumandal Padadhikari Office, Sadar, Bhagalpur, Bihar, certifying him to belong to the "Pan" community.

b) The Appellant was thereafter recommended by the Union Public Service Commission for appointment to the post of Public

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[4] learned Trial Court
[5] Recovery Suit
[6] CBI
[7] Caste Certificate

Prosecutor *vide* letter dated 28.11.1995. Following the requisite verification and completion of the prescribed formalities, an appointment memorandum dated 09.12.1996 came to be issued, pursuant to which the Appellant joined the CBI as Public Prosecutor on 20.12.1996.

c) The dispute which subsequently arose concerned the genuineness and validity of the caste certificate relied upon by the Appellant. According to the Appellant, despite his appointment and completion of the probationary period, the then Administrative Officer of the CBI initiated action against him in respect of the caste certificate.

d) The Appellant alleges that the action was actuated by *mala fides* and was undertaken without obtaining an opinion from a handwriting expert regarding the signatures appearing on the certificate. It is his case that the ensuing criminal proceedings were instituted with the intention of causing injury to his reputation, career and personal life.

e) The Respondent, on the other hand, disputed the aforesaid allegations. Their case was that, upon verification of the certificate, the District Magistrate, Bhagalpur, had reported that the Appellant belonged to the **Other Backward Class**[8] category and that the caste certificate relied upon by him was not genuine.

f) In particular, reliance was placed upon the **Report dated 10.12.1998 of the District Magistrate, Bhagalpur**[9], wherein it was stated that no certificate in the name of the Appellant had been issued from the concerned office and that the signature of the purported

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[8] OBC

[9] Report

issuing authority appearing on the certificate was doubtful and did not tally with the signature of the then Anumandal Padadhikari.

g) On the basis of the aforesaid verification, and with the approval of the competent authority, a communication dated 20.01.1999 was addressed to the concerned police authorities, pursuant to which **FIR No. 45/1999**[10] came to be registered at Police Station Lodhi Colony, New Delhi, under Sections 420, 468 and 471 of the **Indian Penal Code, 1860**[11].

h) The criminal proceedings thereafter continued for several years. The Appellant's case was that the allegation concerning the caste certificate was false and that the criminal prosecution had caused him prolonged mental agony, loss of reputation and financial hardship.

i) The Appellant has pleaded that the registration and publication of the allegations concerning the criminal case adversely affected his reputation and standing in society and caused hardship to his family as well. He has also attributed the loss of his employment and other consequential financial difficulties to the actions of the Respondent.

j) The criminal case ultimately culminated in the Appellant's acquittal *vide* **Judgment dated 01.02.2018**[12] passed by the **learned Metropolitan Magistrate**[13] in the proceedings arising out of the FIR.

k) The Appellant relied upon the said acquittal as the principal foundation for his subsequent claim that the criminal proceedings had been maliciously instituted against him. The Respondent, however, disputed that the acquittal could, by itself, establish either malice or

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[10] FIR
[11] IPC
[12] Acquittal Judgment
[13] learned Magistrate

absence of reasonable and probable cause in instituting the criminal proceedings.

l) It is also relevant that, in the *interregnum*, the Appellant's services as Public Prosecutor had come to be terminated on 15.04.2002. The Appellant attributed the termination to the criminal proceedings and the alleged acts of the Respondents. The Respondents, however, specifically disputed this assertion and pleaded that the Appellant had concealed the subsequent litigation concerning his termination.

m) They pointed out that the Appellant had challenged the termination before the **Central Administrative Tribunal**[14] in OA No. 902/2003 and that, although the Tribunal had initially directed his reinstatement *vide* Order dated 28.04.2004, the said decision was subsequently interfered with by this Court in W.P.(C) No.12998/2004 *vide* Judgment dated 31.05.2007, whereby the order of termination stood restored.

n) Following his acquittal, the Appellant issued **legal notices dated 14.09.2018 and 26.09.2018**[15] to the Respondents claiming compensation of Rs.1,99,00,000/-. The claim comprised, *inter alia*, Rs.1 crore towards injury and loss to his reputation arising from the loss of his Group-A gazetted service, Rs.50 lakhs towards mental torture and physical agony allegedly suffered over a period of approximately 19 years, Rs.40 lakhs towards loss of family honour and Rs.9 lakhs towards legal assistance and other expenses. The Appellant's case was that the Respondents failed to respond to the said notices, resulting in the institution of the suit.

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[14] Tribunal
[15] Legal Notices

o) Accordingly, the Appellant instituted a Recovery Suit before the learned Trial Court, seeking recovery of Rs.1,99,00,000/- towards damages on account of alleged malicious prosecution, defamation, loss of reputation, mental agony, financial loss and other injuries.

p) The Appellant also sought permission to prosecute the suit as an indigent person under Order XXXIII Rules 2 and 3 read with Section 151 CPC. Upon consideration of the report of the SDM concerning his assets, properties, cash and bank balances, the said application came to be allowed *vide* Order dated 02.08.2024.

q) The Respondents contested the suit by filing their written statement. Apart from raising objections concerning the valuation of the suit, court fees and maintainability, the Respondents denied the allegations of malicious prosecution and defamation. It was specifically pleaded that the criminal proceedings had not been initiated without basis, but had followed the verification Report received from the District Magistrate, Bhagalpur, concerning the caste certificate relied upon by the Appellant. The Respondents further disputed the alleged loss of reputation, goodwill and other damages and contended that the claim was unsupported by any substantial material.

r) On the basis of the pleadings, the learned Trial Court framed the following issues *vide* Order dated 17.04.2025, *namely*, whether the suit was properly valued and the requisite court fee had been paid; whether the suit was bad for misjoinder of parties; whether the Appellant was entitled to recover Rs.1,99,00,000/- from the Respondents on account of damages and loss of reputation; and relief.

s) In support of his case, the Appellant entered the witness box as PW-1 and tendered his evidence by way of affidavit. He relied, *inter* *alia*, upon the certified copy of the Acquittal Judgment passed in the criminal proceedings arising out of the FIR, copies of the Legal Notices issued to the Respondents and the corresponding postal receipts and tracking reports, besides other documents. The Appellant was cross-examined and discharged, following which his evidence was closed on 30.07.2025. The Respondents did not lead evidence, and their evidence was closed, after which the matter proceeded to final arguments.

t) Upon hearing the parties and considering the material placed on record, the learned Trial Court proceeded to examine the claim for damages principally in the context of the ingredients required to sustain an action for malicious prosecution, as well as the Appellant's separate claim on account of alleged defamation and loss of reputation.

u) The Recovery Suit ultimately came to be dismissed *vide* the Impugned Judgment, giving rise to the present Appeal.

<u>SUBMISSIONS ON BEHALF OF THE PARTIES:</u>

5. The Appellant, appearing in person, would assail the Impugned Judgment and submit that the learned Trial Court has failed to appreciate the case of the Appellant in its proper perspective. He would submit that he had instituted the Recovery Suit seeking damages on account of the malicious and tortious acts of the Respondents, which had resulted in prolonged criminal proceedings, loss of reputation, mental agony and financial hardship.

6. He would submit that the criminal proceedings initiated against the Appellant ultimately culminated in his acquittal *vide* Acquittal Judgment and that the circumstances in which the FIR came to be

registered demonstrate that the proceedings were initiated with a *mala fide* intention and without any proper basis. He would submit that he was subjected to criminal prosecution for several years despite there being no sufficient material to sustain the allegations against him.

7. He would further submit that the learned Trial Court has failed to appreciate the distinction between general and special damages recognised under the law of torts. He would submit that the claim raised by him included damages towards mental agony, injury to reputation and consequential losses suffered by him and his family, which arose from the acts complained of and were liable to be considered by the learned Trial Court.

8. He would further submit that the Respondents did not lead any evidence in support of the defence taken in the written statement. In particular, that Respondent No. 2 did not enter the witness box or tender any evidence by way of affidavit. He would, therefore, submit that the averments contained in the written statement, in the absence of supporting evidence, could not have been relied upon to defeat his claim.

9. He would also submit that the learned Trial Court has failed to appreciate the effect of his acquittal in the criminal proceedings and the prolonged period during which he was required to face the prosecution. He would submit that the acquittal, coupled with the circumstances in which the criminal proceedings were initiated and continued, constituted material which ought to have been duly considered while examining his claim for damages.

10. He would, therefore, submit that the Impugned Judgment suffers from material errors in appreciation of the pleadings and evidence on record and that the learned Trial Court has failed to

properly consider the principles governing a claim for damages arising from malicious prosecution and tortious conduct. He would accordingly seek setting aside of the Impugned Judgment and grant of the reliefs sought by him in the Appeal.

11. ***Per contra***, learned counsel appearing on behalf of the Respondent would support the Impugned Judgment and submit that the learned Trial Court has duly considered all the aspects arising for consideration and, upon appreciation of the material placed on record, has rightly dismissed the Recovery Suit filed by the Appellant.

12. Learned counsel would submit that the Impugned Judgment is a well-reasoned and considered judgment, wherein the learned Trial Court has dealt with the respective pleadings and contentions of the parties and has thereafter returned findings on the issues arising for determination. He would submit that no error or infirmity has been demonstrated in the reasoning adopted by the learned Trial Court which would warrant interference by this Court.

13. Learned counsel would further submit that the mere acquittal of the Appellant in the criminal proceedings cannot, by itself, establish that the prosecution was malicious or that the Respondents acted with any *mala fide* intention. He would submit that the criminal proceedings were initiated pursuant to the circumstances and material available at the relevant time and there was no intention on the part of the Respondents to cause injury to the Appellant.

14. It would further be submitted that the Appellant has failed to establish the essential ingredients necessary to sustain a claim for damages on account of malicious prosecution or any other tortious conduct. The findings returned by the learned Trial Court, therefore,

call for no interference and the present Appeal, being devoid of merit, is liable to be dismissed.

ANALYSIS:

15. This Court has heard the Appellant, appearing in person, and the learned counsel appearing for the Respondent and carefully perused the pleadings, oral and documentary evidence, and the entire record.

16. As noticed hereinabove, the controversy in the present Appeal arises out of the Appellant's claim for damages founded principally upon the alleged malicious and tortious acts of the Respondents in initiating and pursuing the criminal proceedings against him. The Appellant has sought to assail the findings returned by the learned Trial Court rejecting his claim, *inter alia*, on the ground that the criminal proceedings had culminated in his acquittal, that the Respondents had acted with *mala fide* intention and that the Appellant had suffered loss of reputation, mental agony and other consequential damages. Consequently, the principal question which falls for consideration before this Court is whether the finding so recorded suffers from any perversity, illegality, or material misappreciation of the oral and documentary evidence on record so as to warrant interference in the exercise of appellate jurisdiction under Section 96 of the CPC.

17. Before adverting to the rival submissions and examining the evidence on record, it would be apposite to briefly recapitulate the nature and scope of the jurisdiction exercised by a First Appellate Court under Section 96 of the CPC.

18. It is well settled that a first appeal is a valuable statutory right. Unless expressly curtailed by statute, the entire case, both on facts and law, is open for reconsideration before the First Appellate Court. The appellate court is not confined to examining errors of law alone but is under a duty to independently assess the pleadings, appreciate the oral and documentary evidence, consider the submissions advanced by the parties, and arrive at its own findings supported by cogent reasons.

19. At the same time, it is equally well settled that where the findings recorded by the learned Trial Court are based upon a proper appreciation of oral and documentary evidence, particularly after evaluating the credibility and demeanour of witnesses who have deposed before it, such findings ordinarily deserve due weight and deference. Interference with such findings is justified only where they are shown to be perverse, contrary to the evidence on record, based on an erroneous application of law, or are such that no reasonable judicial mind could have arrived at the conclusions reached by the Trial Court.

20. The aforesaid principles have been consistently reiterated by the Hon'ble Supreme Court in ***Santosh Hazari v. Purushottam Tiwari***[16]**,** ***Madhukar v. Sangram***[17], ***H.K.N. Swami v. Irshad Basith***[18]; and several other decisions. These principles were comprehensively restated by the Hon'ble Supreme Court in ***Malluru Mallappa v. Kuruvathappa***[19], wherein the Court succinctly explained the scope and ambit of a first appeal under Section 96 of the CPC, the obligation of the appellate court to independently evaluate the evidence and record reasons in compliance with Order XLI Rule 31 of the CPC,

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[16] (2001) 3 SCC 179
[17] (2001) 4 SCC 756
[18] (2005) 10 SCC 243
[19] (2020) 4 SCC 313

while simultaneously recognizing that where the appellate court concurs with the appreciation of evidence by the Trial Court, it need not unnecessarily restate the entire evidence or reiterate every reason recorded by the Trial Court. The relevant observations as made in the said Judgement read as under:

> "**10.** Section 96CPC provides for filing of an appeal from the decree passed by any court exercising original jurisdiction to the court authorised to hear the appeals from the decisions of such courts. In the instant case, the appeal from the decree passed by the trial court lies to the High Court. The expression "appeal" has not been defined in CPC. *Black's Law Dictionary* (7th Edn.) defines an appeal as "a proceeding undertaken to have a decision reconsidered by bringing it to a higher authority". It is a judicial examination of the decision by a higher court of the decision of a subordinate court to rectify any possible error in the order under appeal. The law provides the remedy of an appeal because of the recognition that those manning the judicial tiers too commit errors.
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> **11.** In ***Hari Shankar* v. *Rao Girdhari Lal Chowdhury*, AIR 1963 SC 698** it was held that a right of appeal carries with it a right of rehearing on law as well as on fact, unless the statute conferring a right of appeal limits the rehearing in some way as has been done in second appeal arising under CPC.
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> **12.** In ***Shankar Ramchandra Abhyankar* v. *Krishnaji Dattatreya Bapat*, (1969) 2 SCC 74** it was held thus: (SCC pp. 77-78, para 5)
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> > "*5.* … In the well-known work of *Story on Constitution* (of United States), Vol. 2, Article 1761, it is stated that the essential criterion of appellate jurisdiction is that it revises and corrects the proceedings in a cause already instituted and does not create that cause. The appellate jurisdiction may be exercised in a variety of forms and, indeed, in any form in which the legislature may choose to prescribe. According to Article 1762, the most usual modes of exercising appellate jurisdiction, at least those which are most known in the United States, are by a writ of error, or by an appeal, or by some process of removal of a suit from an inferior tribunal. An appeal is a process of civil law origin and removes a cause, entirely subjecting the fact as well as the law, to a review and a retrial."
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> **13.** It is a settled position of law that an appeal is a continuation of the proceedings of the original court. Ordinarily, the appellate jurisdiction involves a rehearing on law as well as on fact and is invoked by an aggrieved person. The first appeal is a valuable right of the appellant and therein all questions of fact and law decided by the trial court are open for reconsideration. Therefore, the first

appellate court is required to address itself to all the issues and decide the case by giving reasons. The court of first appeal must record its findings only after dealing with all issues of law as well as fact and with the evidence, oral as well as documentary, led by the parties. The judgment of the first appellate court must display conscious application of mind and record findings supported by reasons on all issues and contentions [see: ***Santosh Hazari*** **v.** ***Purushottam Tiwari*****, (2001) 3 SCC 179,** ***Madhukar*** **v.** ***Sangram*****, (2001) 4 SCC 756,** ***B.M. Narayana Gowda*** **v.** ***Shanthamma*****, (2011) 15 SCC 476,** ***H.K.N. Swami*** **v.** ***Irshad Basith*****, (2005) 10 SCC 243** and ***Sri Raja Lakshmi Dyeing Works*** **v.** ***Rangaswamy Chettiar*****, (1980) 4 SCC 259**.

14. A first appeal under Section 96 CPC is entirely different from a second appeal under Section 100. Section 100 expressly bars second appeal unless a question of law is involved in a case and the question of law so involved is substantial in nature.

15. Order 41 Rule 31 CPC provides the guidelines for the appellate court to decide the matter. For ready reference Order 41 Rule 31 CPC is as under:

> **"31.** ***Contents, date and signature of judgment***. - The judgment of the appellate court shall be in writing and shall state-
> (*a*) the points for determination;
> (*b*) the decision thereon;
> (*c*) the reasons for the decision; and
> (*d*) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled;
> and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein."

16. In ***Vinod Kumar*** **v.** ***Gangadhar*****, (2015) 1 SCC 391** this Court has reiterated the principles to be borne in mind while disposing of a first appeal, as under: (SCC p. 395, para 15)

> "*15.* Again in ***B.V. Nagesh*** **v.** ***H.V. Sreenivasa Murthy*****, (2010) 13 SCC 530**, this Court taking note of all the earlier judgments of this Court reiterated the aforementioned principle with these words: (SCC pp. 530-31, paras 3-4)
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> > '*3.* How the regular first appeal is to be disposed of by the appellate court/High Court has been considered by this Court in various decisions. Order 41CPC deals with appeals from original decrees. Among the various rules, Rule 31 mandates that the judgment of the appellate court shall state:
> > (*a*) the points for determination;
> > (*b*) the decision thereon;
> > (*c*) the reasons for the decision; and

(*d*) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled.

4. The appellate court has jurisdiction to reverse or affirm the findings of the trial court. The first appeal is a valuable right of the parties and unless restricted by law, the whole case is therein open for rehearing both on questions of fact and law. The judgment of the appellate court must, therefore, reflect its conscious application of mind and record findings supported by reasons, on all the issues arising along with the contentions put forth, and pressed by the parties for decision of the appellate court. Sitting as a court of first appeal, it was the duty of the High Court [***H.V. Sreenivasa Murthy* v. *B.V. Nagesha*, 2008 SCC OnLine Kar 837**] to deal with all the issues and the evidence led by the parties before recording its findings. The first appeal is a valuable right and the parties have a right to be heard both on questions of law and on facts and the judgment in the first appeal must address itself to all the issues of law and fact and decide it by giving reasons in support of the findings. (Vide ***Santosh Hazari* v. *Purushottam Tiwari*, (2001) 3 SCC 179**, SCC p. 188, para 15 and ***Madhukar* v. *Sangram*, (2001) 4 SCC 756**, SCC p. 758, para 5.)'"

17. In ***Shasidhar* v. *Ashwini Uma Mathad*, (2015) 11 SCC 269**, it was held as under: (SCC p. 277, para 21)

"*21*. Being the first appellate court, it was, therefore, the duty of the High Court [***Shasidhar* v. *Ashwini Uma Mathad*, 2012 SCC OnLine Kar 8774**] to decide the first appeal keeping in view the scope and powers conferred on it under Section 96 read with Order 41 Rule 31 of the Code mentioned above. It was unfortunately not done, thereby, causing prejudice to the appellants whose valuable right to prosecute the first appeal on facts and law was adversely affected which, in turn, deprived them of a hearing in the appeal in accordance with law."

18. It is clear from the above provisions and the decisions of this Court that the judgment of the first appellate court has to set out points for determination, record the decision thereon and give its own reasons. Even when the first appellate court affirms the judgment of the trial court, it is required to comply with the requirement of Order 41 Rule 31 and non-observance of this requirement leads to infirmity in the judgment of the first appellate court. No doubt, when the appellate court agrees with the views of the trial court on evidence, it need not restate effect of evidence or reiterate reasons given by the trial court. Expression of a general agreement with the reasons given by the trial court would ordinarily suffice."

21. Having noticed the nature and scope of the controversy arising in the present Appeal, this Court now proceeds to examine the challenge laid by the Appellant to the findings returned by the learned Trial Court on the claim for damages. Before undertaking such examination, it would be apposite to first advert to the reasoning which persuaded the learned Trial Court to reject the Appellant's claim. The relevant findings recorded in the Impugned Judgment are reproduced hereunder:

"ISSUE NO. 3

Whether the plaintiff is entitled to decree of recovery of an amount of Rs. 1,99,00,000/- (Rupees one crore Ninety Nine Lacs) against the defendants on account of damages and loss of reputation, as prayed for? OPP

24. The burden of proving this issue was upon plaintiff. In order to prove his case to this effect, the plaintiff placed reliance upon his testimony and the documents Ex.PW1/2 to Ex.PW1/11.

25. It is argued by plaintiff that he is entitled for compensation due to malicious act or tortious act committed by complainant Dr.Tarsem Chand of CBI without obtaining the expert opinion in reference of alleged caste certificate dated 21.11.1994 from handwriting expert of Central Government or State Government; plaintiff suffered 19 years under the wheel of justice and everything lost i.e. reputation, monetary loss as well as suffered mental and physical injury and pain. He further argued that it is mandatory to seek an explanation from the employee before lodging a criminal case against him, which was not done by Defendant No. 2 in the present case, hence, the defendant is liable to pay compensatory damages. He also contended that if a person knowingly lodges a false complaint with the police, naming, the plaintiff as the accused, and supports the same with false evidence before the police as well as in court, such person would be deemed to be the prosecutor in a suit for malicious prosecution even if the court takes cognizance of the case on a police challan, as held in ***Balbhaddar v. Badrisah***, AIR 1926 PC46.

26. On the other hand, it is argued by Ld. Counsel for defendant that plaintiff is not entitled to decree for recovery of any amount on account of damages and loss of reputation for want of any document in support of claim, and that in absence of any supporting document alleged claims are unreliable, inadmissible in evidence and cannot be considered by this Court. It is further argued that the plaintiff has neither annexed any documents with the plaint nor exhibited any documents during his testimony, and that, in the absence of any evidence of publication no claim for defamation can be sustained against any person.

27. The present suit has been instituted by plaintiff for recovery on account of damages and defamation for malicious prosecution. In order to succeed in a suit for damages on account of malicious prosecution, the following conditions must be fulfilled:

(i) that criminal proceedings must have been instituted by the defendant;

(ii) that in doing so the defendant had acted without any reasonable and probable cause;

(iii) that the defendant acted maliciously:

(iv) that the criminal proceedings terminated in favour of plaintiff i.e. in his acquittal or discharge and the defendant was unsuccessful.

28. A bare perusal of the judgment passed in case ***FIR No.45/1999. P.S. Lodhi Colony, State vs. Shankar Prasad Tanti*** shows that condition no. 1 and 4 are fulfilled. <u>However, plaintiff has failed to either plead or prove the malice on the part of defendant in prosecution of aforesaid case. As per rules of pleadings, the plaintiff was required to give detailed particulars of the alleged malice on the part of defendant in prosecution of criminal case in the plaint and the said particulars should have been proved by the plaintiff by leading reliable evidence. However, in my considered opinion, a bare perusal of plaint shows that entire plaint is conspicuously silent about alleged malice on the part of defendant in prosecution of the aforesaid case.</u>

29. <u>On a bare perusal of judgment passed by Ld. M.M-01,South East. Saket Courts, New Delhi further shows that the defendant cannot be said to be acting without any reasonable or probable cause in as much as it has been recorded by Ld. MM that the present FIR was registered by complainant / PW1 on the basis of report of District Magistrate, Bhagalpur, Bihar which was sent vide letter dated 10.12.1998</u>. However, plaintiff was acquitted as no evidence was produced by the prosecution by which it may be established that accused had cheated the public authorities by producing fake scheduled caste certificate for obtaining the service as public prosecutor in CBI. <u>However, it does not mean that in filing the complaint, the defendant had acted without any reasonable or probable cause.</u>

30. <u>Thus, in my considered opinion, in the absence of detailed particulars as to the malice on the part of defendant in his criminal case, the plaint does not disclose any cause of action for claim of damage on account of malice prosecution</u>.

31. The averment of the plaintiff that the said criminal prosecution was a malicious prosecution has to be viewed in the light of the law laid by the Hon'ble Apex Court and Hon'ble High Courts in various judgments. Pertinently, the Hon'ble Punjab & Haryana High Court in its judgment **"Tarwinder Kumar Bedi v. Jit Parkash (2014 SCC Online P&H 20259),** the Court has held that:

> "6. In order to succeed in a suit for damages for malicious prosecution, plaintiff has to prove:-
>
> (a) that the plaintiff was prosecuted by the defendant;
>
> (b) that the prosecution ended in favour of plaintiff;
>
> (c) that the defendant acted without reasonable and probable cause;
>
> (d) that the defendant was actuated by malice."

Further, the Hon'ble High Court in para no. 9 of its judgment has observed as follows –

> "…The onus to prove that the proceedings were initiated without any reasonable cause is always on the person who asserts in affirmative i.e. the plaintiff in the present case who seeks damages on account of alleged false accusation. The conditions precedent for filing the suit for malicious prosecutions are the aforesaid conditions which should coexist before the defendant in a suit for malicious prosecution can be burdened with liability. No doubt it is true that the acquittal of a person in a criminal case sometimes gives presumption that there was no reasonable cause for his prosecution, but this presumption is rebuttable in nature and there cannot be any universally accepted phenomenon that in case prosecution fails then the accused would be entitled for damages. Otherwise in all those cases where prosecution fails, would give rise to damages in favour of the accused. In view of this, it would be more in consonance with justice and equity to weigh the lodging of accusation on the threshold of principles as enumerated above. The question which has been posed for consideration before the court is whether the prosecution lodged against the person before a criminal court of law, if found having been instituted falsely or maliciously can lay the foundation for filing suit for damages for malicious prosecution. The proposition has been seen in the context of complicity whether simply, setting the criminal law in motion on account of presentation of complaint (whether the same is found false subsequently) gives arise to any cause of action. If the action is dismissed by the court in the very inception as the same does not disclose any complicity, then in such eventuality, the finding of the criminal court cannot be presumed to be conclusive in nature. The second situation arises, where acquittal is recorded by the Court or a complaint is dismissed on the

ground that it does not disclose any cognizable offence. The findings recorded in such process may or may not have contained a finding that the prosecution case is based on falsehood and is thus frivolous.

Recording of such findings are only for the purpose of dismissal of the complaint or criminal prosecution. A sharp distinction has to be drawn between the aforesaid course and the course which is required for an action for a malicious prosecution. In an action for malicious prosecution if the ingredients as mentioned above are not satisfied, then the courts are not obliged to connect the lis simply on the basis of alleged accusation based on filing of the complaint simpliciter. The court is required to record finding in an action for malicious prosecution on all the aforesaid ingredients with reference to evidence on record..."

32. The meaning of malice and malicious prosecution has been explained by the Hon'ble Supreme Court in "**West Bengal State Electricity Board v. Dilip Kumar Ray (2007) 14 SCC 568** as follows-

"Malicious Prosecution Malice. Malice means an improper or indirect motive other than a desire to vindicate public justice or a private right. It need not necessarily be a feeling of enmity, spite or ill-will. It may be due to a desire to obtain a collateral advantage. The principles to be borne in mind in the case of actions for malicious prosecutions are these: Malice is not merely the doing a wrongful act intentionally but it must be established that the defendant was actuated by mains animus, that is to say, by spite of ill- will or any indirect or improper motive. But if the defendant had reasonable or probable cause of launching the criminal prosecution no amount of malice will make him liable for damages. Reasonable and probable cause must be such as would operate on the mind of a discreet and reasonable man;' malice and want of reasonable and probable cause.' have reference to the state of the defendant's mind at the date of the initiation of criminal proceedings and the onus rests on the plaintiff to prove them.

33. In view of the above, it is evident that the defendant acted with reasonable and probable cause, subsequently, criminal prosecution against the plaintiff was lodged.

34. Further, in the present case, the plaintiff has pleaded that he was defamed due to the acts of the defendants. In this regard, it is observed that there is no statutory law of civil defamation in our country, although its criminal aspect is covered under the provisions of Indian Penal code. The essential ingredients that must be established in a suit for civil defamation are that the alleged statement is: (i) false, (ii) defamatory, and (iii) published .In civil proceedings, the emphasis is on restoring the aggrieved person to the position he or she occupied prior to the commission of the wrong. In a case of defamation, this is done through reimbursing the person for the harm caused to him by imposing damages on the wrongdoer. Thus, it has to be proved that the alleged defamatory contents damaged the reputation of the person (damages must be proved and not merely alleged or claimed). In a civil suit for defamation, the only ingredients which need to be proved are that the statement was false, caused harm to reputation and was published. Intention or motive does not need to be attributed to the offender.

35. In Halsbury's laws of England, defamatory statement i.e. libel is defined in the following terms:

> "The defamatory statement is a statement which tends to lower a person in the estimation of right thinking members of society generally or to cause him to be shunned or avoided or to expose him to hatred, contempt or ridicule or to convey an imputation on him disparaging or injurious to him in his office, profession, calling Trade or business."

36. The Hon'ble High Court of Delhi in **Trilok Chand Bansalv. Bharat Bhushan Bansal (decided on 23.03.2017)** has observed as follows:

> “22. In my view all prosecutions ending in an acquittal cannot be said to be malicious. I have in Sannam Bharti vs D.T.C (2013 SCC online DEL 3104) and in Akbar Ali vs State 2014 SCC Online DEL 1547) held so. There is no presumption in law of a prosecution ending in an acquittal being malicious. Thus a plaint in a suit for compensation for malicious prosecution merely stating that the plaintiff was prosecuted by or at the instance of the defendant and was acquitted, would not disclose a cause of action.
>
> 23. There can be manifold reasons for acquittal. Every acquittal is not a consequence of the prosecution being malicious. It cannot be lost sight of that the remedy of compensation has been provided for "malicious prosecution" and not for "wrongful or uncalled for or failed prosecution".

37. In **Deepak Rathaur & anr v. Shashi Bhushan Lal Dass (2016 SCC Online Del 5319)** the Hon'ble Delhi High Court on this point has observed that:

> “8. The issue therefore is as to whether on account of the appellants/plaintiffs being acquitted in the criminal case this by itself can show that there is malicious prosecution of the appellants/plaintiffs by the respondent/defendant. In my opinion, the answer to that has to be in the negative because mere fact that there has been acquittal in the criminal case will not automatically prove malicious

prosecution in as much as what is relevant to succeed in a civil suit for seeking damages for malicious prosecution is that it must be found that a criminal complaint case or an FIR was initiated without reasonable and probable cause.

10. …the Supreme Court has categorically held in the judgment in the case of Vishnu Dutt Sharma v. Daya Sapra (Smt.) (2009) 13 SCC 729 that judgment in a criminal case between the parties which has resulted in acquittal is not binding on the civil court and any finding in the criminal proceedings by no stretch of imagination would be binding between civil proceedings. Therefore, I reject the argument urged on behalf of the appellants/plaintiffs that this Court should hold the respondent/defendant guilty on the basis of reasoning and conclusions contained in the Judgment dated 6.8.2007 of the Additional Sessions Judge. The relevant para of the judgment of the Supreme Court in the case of Vishnu Dutt Sharma (supra) is para 23 and the same reads as under:

"23. It brings us to the question as to whether previous judgment of a criminal proceeding would be relevant in a suit. Section 40 of the Evidence Act reads as under:

"Previous judgments relevant to bar a second suit or rial-- The existence of any judgment, order or decree which by law prevents any Courts from taking Cognizance of a suit or holding a trial is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial." This principle would, therefore, be applicable, inter alia, if the suit is found to be barred by the principle of res judicata or by reason of the provisions of any other statute. It does not lay down that a judgment of the criminal court would be admissible in the civil court for is relevance is limited. (See Seth Ramdayal Jat v. Laxmi Prasad). The judgment of a criminal court in a civil proceeding will only have limited application, viz., inter alia, for the purpose as to who was the accused and what was the result of the criminal proceedings. Any finding in a criminal proceeding by no stretch of imagination would be binding in a civil proceeding."

38. Precisely, in case **Vishnu Dutt Sharma vs. Daya Sapra2009) 13 SCC 729** the Hon'ble Supreme Court has held that:

"There cannot be any doubt or dispute that a creditor can maintain a civil and criminal proceeding at the same time. Both the proceedings, thus, can run parallel. The fact required to be proved for obtaining a decree in the civil suit and a judgment of conviction in the criminal proceedings may be overlapping but the standard of proof in a criminal case vis-à- vis a civil suit, indisputably is different. Whereas in a criminal case the prosecution is bound to prove the commission of the offence on the part of the accused beyond any reasonable doubt, in a civil suit" preponderance of probability" would serve the purpose for obtaining a decree."

39. It brings us to the question as to whether previous judgment of a criminal proceeding would be relevant in a suit. Section 40 of the Evidence Act reads as under:

> "40. Previous judgments relevant to bar a second suit or trial. --The existence of any judgment, order or decree which by law prevents any court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such court ought to take cognizance of such suit or to hold such trial." This principle would, therefore, be applicable, inter alia, if the suit is found to be barred by the principle of res judicata or by reason of the provisions of any other statute. It does not lay down that a judgment of the criminal court would be admissible in the civil court for its relevance is limited. (See Seth Ramdayal Jat v. Laxmi Prasad I(2009) |1 SCC 545 : (2009) 5 Scale 527.) The judgment of a criminal court in a civil proceeding will only have limited application viz. inter win the result of the criminal proceedings. Any finding in a criminal proceeding by no stretch of imagination would be binding in a civil proceeding."

40.The grounds of the plaintiff on which the plaintiff has brought a suit for malicious prosecution against the defendants is the acquittal of plaintiff by the Ld. MM-01, and it is on the basis of his acquittal only that the plaintiff asserts that prosecution is false and malicious, is not sustainable on the reasons as discussed in the foregoing paras. The present suit has been instituted by the plaintiff against the defendant seeking damages for defamation and malicious prosecution, on account of losses allegedly suffered in terms of money and reputation due to a false and frivolous criminal complaint. However, the said claim is not tenable in view of the judgment in *Vishnu Dutt Sharma v. Daya Sapra (supra)*. This Court observes that the prosecution was initiated against the plaintiff on the basis of complaint and there is no material on record to show that a malicious/mischievous complaint was filed against the plaintiff. This court further observes that the officials of defendant no. 2 were only doing their job by carrying out investigation and prosecution thereof and their actions were all in good faith and due process of law was followed. From careful perusal of the record, it is relevant to state that it is not the case of plaintiff that there was any enmity between the plaintiff and defendant as enumerated in *West Bengal State Electricity Board (supra).*

41. As far as the quantum of damage is concerned, the plaintiff has mentioned in his written submissions that he suffered special and general damages (Rs.1,00,00,000/- as injury/loss of reputation being a gazetted post of service in Group A, Rs.50,00.000/ as mental torture and physical agony for the period of 19 years and Rs.40,00,000/- as loss of family honour). Plaintiff has further claimed a sum of Rs. 9,00,000/- towards legal assistant and general. However, no calculation has been provided by the plaintiff in the plaint regarding the amount sought is damages. The plaintiff has adduced the legal notice dated 26.09.2018 Ex.PW1/3 regarding the damage and compensation of Rs 1,99,00,000/- but no breakup of the amount was provided in the said legal notice also.

42. Further, the plaintiff has not examined any other witness to show that his reputation has been lowered or his image tarnished amongst his social circle, friends and relatives etc. The plaintiff herein has thus not been able to prove that he suffered damages due to filing of criminal case by defendant and defamation was caused to him as alleged. Damage and compensation as pleaded by plaintiff have not been substantiated by requisite evidence.

43. The plaintiff has not been able to prove "malicious prosecution or the aspect of damages on the basis of the judgment of acquittal and other evidence adduced. Thus, this issued is decided against plaintiff and in favour of the defendant.

(emphasis supplied)

22. A perusal of the aforesaid findings would reveal that the learned Trial Court proceeded to examine the Appellant's claim primarily with reference to the essential ingredients of an action for malicious prosecution and, upon such examination, found that while the institution of the criminal proceedings and their eventual termination in favour of the Appellant stood established, the Appellant had failed to plead and prove the remaining essential ingredients, *namely*, that the proceedings had been initiated without reasonable and probable cause and that the Respondents were actuated by malice.

23. In arriving at this conclusion, the learned Trial Court took note of the material which had preceded the registration of the FIR, particularly the report of the District Magistrate, Bhagalpur, Bihar and held that the criminal proceedings could not be said to have been initiated without reasonable or probable cause merely because they subsequently culminated in an acquittal.

24. The learned Trial Court further found that the Appellant had failed to establish the alleged malice or any improper motive on the part of the Respondents and, insofar as the claim for defamation and damages was concerned, also found the evidence insufficient to substantiate either the alleged injury to reputation or the quantum of damages claimed.

25. The reasoning adopted by the learned Trial Court having been set out hereinabove, it would now be apposite for this Court, in exercise of its first appellate jurisdiction, to independently examine the pleadings, evidence and material on record and determine whether the conclusions so arrived at can be sustained.

26. The first question which arises for consideration is whether the Appellant has established the essential ingredients of an action for malicious prosecution. The settled requirements are that the criminal proceedings must have been instituted by the Respondents, that the proceedings must have terminated in favour of the Appellant, that the Respondents acted without reasonable and probable cause, and that the Respondents were actuated by malice.

27. The learned Trial Court, while examining the aforesaid requirements, has already taken note of the decisions in ***Tarwinder Kumar Bedi v. Jit Parkash***[20], ***West Bengal State Electricity Board v. Dilip Kumar Ray***[21] and the other authorities noticed in the Impugned Judgment, and has applied the principles emerging therefrom to the claim set up by the Appellant.

28. This Court, therefore, does not consider it necessary to reiterate the principles already noticed by the learned Trial Court and proceeds

[20] 2014 SCC Online P&H 20259
[21] (2007) 14 SCC 568

to independently examine whether, on the evidence and material available on record, the findings so returned are sustainable.

29. Therefore, the burden of establishing these ingredients rests upon the person seeking damages on the ground of malicious prosecution. The mere fact that the criminal proceedings have terminated in favour of the accused does not, by itself, establish that the prosecution was malicious or that it had been initiated without reasonable and probable cause.

30. In the present case, there is no dispute that the criminal proceedings arising out of the FIR were instituted against the Appellant and that the same ultimately terminated in his favour by way of acquittal. These two ingredients, therefore, stand satisfied.

31. The controversy, however, lies in determining whether the Appellant has established that the Respondents had initiated the proceedings without reasonable and probable cause and were actuated by malice.

32. On an independent examination of the material placed on record, this Court is unable to find that the institution of the criminal proceedings was without any reasonable or probable basis.

33. The circumstances preceding the institution of the criminal proceedings assume considerable significance in examining whether the Respondents had reasonable and probable cause for setting the criminal law in motion. The prosecution case itself proceeded on the basis that the Caste Certificate furnished by the Appellant was sent for verification and that the District Magistrate, Bhagalpur, by its communication dated 10.12.1998, reported that, as per the report of the Anumandal Padadhikari dated 24.11.1994, no certificate in the name of the Appellant had been issued and that the signature of the

issuing authority appeared doubtful. It was on the basis of the aforesaid material that the complaint dated 20.01.1999 came to be lodged, and the criminal proceedings were initiated.

34. However, the nature and quality of the material which preceded the registration of the FIR cannot be divorced from the manner in which the same was subsequently tested in the criminal proceedings.

35. It is in the aforesaid context that the findings recorded in the Acquittal Judgment assume significance. Before examining its bearing on the question of reasonable and probable cause, it would be appropriate to notice the relevant observations recorded therein. The relevant portions are extracted hereinbelow:

"*****

> The present FIR was registered by complainant/PW1 on the basis of report of District Magistrate, Bhagalpur, Bihar which was sent vide his letter dated 10.12.1998 in which he reported that as per the report of the Anumandal Padadhikari dated 24.11.1994, no certificate in the name of Shankar Prasad Tanti S/o Sh. Deep Narayan Tanti was issued from his office. <u>The said report of District Magistrate, District Bhagalpur dated 10.12.1998 is not proved by the prosecution, either by primary evidence or by secondary evidence.</u> Nor the content of the report was corroborated by the prosecution by producing any other evidence. On perusal of the copy of report of District Magistrate dated 10.12.1998, it is found that District Magistrate had raised the doubt in regard to the genuineness of the caste certificate on the ground that signature was found to be not matching with the the then Anumandal Padadhikari. <u>However, during investigation, it is not established that whether the signature of the said Anumandal Padadhikari was genuine or not. IO himself admitted during his cross examination that the signature in question was never compared with admitted signature of issuing authority and IO had explained the reason for the same that the admitted signature of the issuing authority were not available and due to the same reason, the same were not sent for its examination or comparison with the documents in question in the CSFL Lab, Kolkatta.</u>
> The second basis of the prosecution case was that the caste certificate issuing register was not having any endorsement of the issuing authority. <u>However, the said the cast certificate issuing register was neither proved by prosecution by primary evidence or by secondary evidence</u>.

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<u>Further, entry at serial No.216 in the name of Shankar Prasad Tanti in the caste certificate register is not in dispute and said register was in the possession and custody of the issuing authority and accused was not having any opportunity to see whether issuing authority of the caste certificate had performed his duty by making his proper endorsement and signature in the register and accused cannot be held liable for the wrong, if any, done by the custodian of caste certificate issuing authority register.</u>

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No evidence is produced by the prosecution by which it may be established that accused had cheated the public authorities by producing fake scheduled caste certificate for obtaining the services as Public Prosecutor in CBI or accused used forged certificate forgetting appointment as a Public Prosecutor in CBI. The Court is of the considered view that case of the prosecution regarding charge of offence punishable u/s 420/471 IPC against accused Shankar Prasad Tanti S/o Sh. Deep Narayanm Tanti is not proved, hence, accused is acquitted from the present case.

……..”

(emphasis supplied)

36. The learned Magistrate, while acquitting the Appellant, specifically recorded that the Report of the District Magistrate, which constituted the basis of the complaint, had not itself been proved either by primary or secondary evidence, nor had its contents been corroborated by any other evidence. The Court further noticed that, although the report had raised a doubt regarding the genuineness of the signature appearing on the caste certificate, the prosecution had failed to establish whether the signature of the concerned Anumandal Padadhikari was in fact genuine or otherwise. Significantly, the **Investigating Officer**[22] himself admitted that the questioned signature was never compared with any admitted signature of the issuing authority, the stated reason being that such an admitted signature was not available.

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[22] IO

37. The learned Magistrate also examined the second circumstance relied upon by the prosecution, *namely*, the absence of the endorsement or signature of the issuing authority in the caste certificate register. It was found that the register itself had not been proved by primary or secondary evidence and, even otherwise, the relevant page contained other entries which also did not bear the signature of the issuing authority. The entry relating to the Appellant was, however, present in the register. The learned Magistrate further noticed that the register remained in the custody of the issuing authority and that the Appellant could not be held responsible for any omission on the part of the custodian in making an endorsement in that register.

38. Ultimately, it was concluded by the learned Magistrate that there was no evidence, either primary, secondary or scientific in nature, establishing that the Appellant was not a member of the PAN community or Scheduled Caste, or that he had cheated the authorities by producing a fake Scheduled Caste certificate for obtaining his appointment as Public Prosecutor. It was in the aforesaid circumstances that the Appellant came to be acquitted of the offences under Sections 420 and 471 of the IPC.

39. The aforesaid findings are relevant to the present proceedings, although the acquittal itself cannot be treated as conclusive proof of malicious prosecution.

40. Accordingly, the question before this Court is a distinct one, *namely*, whether the Respondents, at the time of setting the criminal law in motion, possessed reasonable and probable cause to do so and whether the proceedings were actuated by malice. The fact that the prosecution ultimately failed to prove its case is undoubtedly not

sufficient, by itself, to establish these ingredients; however, the nature of the material which was available to the Respondents at the time of initiation of the proceedings and the circumstances in which that material came to be acted upon are required to be examined.

41. In this regard, the fact that a verification of the caste certificate had been undertaken and that a report was thereafter received from the District Magistrate, Bhagalpur, cannot be ignored. At the same time, the contents of the said report and the circumstances in which it came to be acted upon have to be examined in the context of the material which was actually available to the Respondents and not merely by reference to the fact that such a report existed.

42. The Report, as noticed from the criminal record, proceeded on the basis that no caste certificate in the name of the Appellant had been issued from the concerned office and that the signature of the issuing authority appeared doubtful. However, the criminal proceedings revealed that the Appellant's name was reflected in the caste certificate register against the PAN community, while other entries in the register also did not bear the signature of the issuing authority. The learned Magistrate further noticed that the questioned signature was never compared with any admitted signature of the issuing authority, the certificate contained no manipulation, cutting, overwriting or addition, and the relevant register remained in the custody of the issuing authority.

43. These circumstances, however, have to be assessed with reference to the point of time when the complaint was instituted. The question is whether the material then available to the Respondents furnished reasonable and probable cause for setting the criminal law in motion, and not whether such material ultimately proved sufficient to

secure a conviction. The subsequent failure of the prosecution, though relevant, cannot by itself retrospectively establish absence of reasonable and probable cause.

44. In the facts of the present case, the Respondents did not initiate the criminal proceedings in the absence of any preceding verification. The complaint was preceded by an official verification process and the Report of the District Magistrate, Bhagalpur, Bihar. Whether the material forming the basis of that Report was ultimately sufficient to sustain the prosecution is a different question from whether it provided a reasonable basis, at the relevant time, for seeking investigation into the authenticity of the caste certificate.

45. The distinction assumes significance because the Appellant seeks to derive absence of reasonable and probable cause principally from the deficiencies subsequently noticed in the criminal proceedings. Those deficiencies may explain why the prosecution failed, but they do not, without further evidence, establish what the Respondents knew or ought reasonably to have known when the complaint was lodged.

46. The next and distinct question is whether the Appellant has established that the proceedings were instituted with malice. The pleadings in this regard assume significance. The Appellant has alleged that the complaint was made with an intention to cause damage to his career, reputation and personal life. However, the allegation of malice must be supported by circumstances from which an improper motive can reasonably be inferred. Mere use of the criminal process, even where the prosecution ultimately fails, does not by itself establish malice.

47. On an independent consideration of the material placed on record, this Court does not find any specific evidence demonstrating that Respondent No.2 had a personal animosity against the Appellant or that the complaint was initiated for a collateral purpose unrelated to the verification of the caste certificate. The material does establish that the issue concerning the Appellant's caste certificate was taken up for verification and that, thereafter, action was initiated. There is, however, no evidence establishing that Respondent No.2 knew the allegations to be false and nevertheless proceeded to set the criminal law in motion with the object of causing injury to the Appellant.

48. The Acquittal Judgment, while recording serious deficiencies in the prosecution evidence, does not contain any finding that the complainant or the Respondents had fabricated the allegation or had knowingly initiated a false prosecution. The learned Magistrate concluded that the prosecution had failed to establish the offences under Sections 420 and 471 IPC by the evidence led before it. That finding is undoubtedly relevant to the Appellant's case, but it cannot, without more, substitute for proof of the distinct ingredient of malice required in an action for malicious prosecution.

49. The submission that Respondent No.2 did not enter the witness box also requires consideration. The absence of evidence from the Respondents cannot be treated as automatically establishing the Appellant's case. The Appellant, being the person asserting a cause of action for malicious prosecution, was required to establish the necessary ingredients of that cause of action. The burden did not shift merely because the Respondents chose not to lead affirmative evidence. The material which the Appellant himself relies upon must,

therefore, establish the absence of reasonable and probable cause as well as malice.

50. In the present case, while the material brought on record casts doubt upon the manner in which the authenticity of the Caste Certificate was investigated and ultimately resulted in the prosecution, this Court is unable to find sufficient evidence to establish that the proceedings were instituted with an improper or malicious motive. The distinction between absence of sufficient evidence to sustain a criminal conviction and absence of reasonable and probable cause at the time of institution of the prosecution has to be maintained.

51. The claim for damages must consequently be examined in the backdrop of the aforesaid findings. The Appellant has claimed substantial amounts towards general and special damages, including loss of reputation, mental agony, loss of family honour and legal expenses. However, the claim for damages cannot be sustained merely upon the factum of the criminal prosecution or its termination in favour of the Appellant. The actionable wrong and the injury said to have resulted therefrom must first be established.

52. Insofar as the allegation of loss of reputation is concerned, the Appellant has relied principally upon the fact that he was subjected to criminal proceedings and was required to face the prosecution for a considerable period. While the pendency of criminal proceedings may undoubtedly cause hardship and distress, the claim for damages for injury to reputation requires the Appellant to establish the actionable basis for such injury and the consequent loss. The record does not disclose evidence sufficient to establish the extent of any diminution of reputation or to substantiate the substantial amount claimed under this head.

53. Similarly, the amounts claimed towards mental agony, physical suffering, loss of family honour and legal expenses have not been established by evidence commensurate with the quantum claimed. The Appellant's own testimony may establish that he underwent the ordeal of criminal proceedings, but the Court cannot award damages of the magnitude claimed merely on the basis of an assertion of hardship, particularly where the foundational tort of malicious prosecution has itself not been established.

54. The contention that certain heads of general damages may, by their very nature, not be capable of precise mathematical proof does not dispense with the requirement of establishing the underlying cause of action and the factum of injury. The question is not whether every element of damages must necessarily be established by mathematical precision, but whether the Appellant has placed sufficient material before the Court to enable it to hold that the Respondents are legally liable for the injury claimed and, thereafter, to assess reasonable compensation.

55. Thus, upon an independent examination of the pleadings, the evidence led before the learned Trial Court, the material preceding the criminal proceedings and the judgment of acquittal, this Court finds that the Appellant has established that criminal proceedings were instituted against him and that the same ultimately terminated in his favour.

56. However, the evidence does not sufficiently establish the remaining essential ingredients of malicious prosecution, particularly the requisite malice. The subsequent acquittal, notwithstanding the deficiencies noticed in the criminal prosecution, cannot by itself furnish a complete basis for an award of damages.

CONCLUSION:

57. Consequently, this Court, upon an independent examination of the pleadings, evidence and material on record, finds that the Appellant has failed to establish the foundational ingredients of malicious prosecution. The acquittal of the Appellant, though relevant to establish that the criminal proceedings terminated in his favour, cannot by itself establish the absence of reasonable and probable cause or malice. Nor has the Appellant established the alleged defamation, consequential injury or the quantum of damages claimed.

58. The findings returned by the learned Trial Court, therefore, withstand independent scrutiny. The conclusion that the Appellant was not entitled to recover the amount claimed towards damages and loss of reputation does not suffer from any error warranting interference in the present Appeal.

59. Accordingly, the present Appeal, being devoid of any merit, stands dismissed

60. Pending Applications, if any, also stand dismissed.

61. No Order as to costs.

HARISH VAIDYANATHAN SHANKAR, J.

SEPTEMBER 07, 2026/jk