



2026:DHC:2066



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

*Reserved on: 21st January, 2026
Pronounced on: 12th March, 2026*

+

**RFA 68/2026 & CM APPL. NOS. 4172/2026,
4173/2026, 4174/2026**

RAM UGRAH SHARMA

.....Appellant

Through: Mr. Bhardwaj S. Iyengar, Advocate.

versus

KANCHAN MALA

.....Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

CM APPL. 4174/2026 (delay of 36 days in re-filing)

1. An Application has been filed by the Appellant seeking condonation of delay of 36 days in re-filing the Appeal.
2. For the reasons stated in the Application, the delay of 36 days in re-filing the Appeal, is condoned.
3. The Application is disposed of, accordingly.

CM APPL. 4173/2026 (for enlargement of time to deposit Court fees)

4. The present application has been filed by the Appellant seeking enlargement of time to deposit the court fee amounting to ₹1,00,084/-. At the outset, it is noticed that the requisite court fee on the present appeal has not been



fully paid. The Registry shall compute the deficit court fee, if any, and ensure that the same is recovered from the appellant. Application is disposed of accordingly with the above direction.

RFA 68/2026 & CM NO.4172/2026

5. This Regular First Appeal under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) has been preferred by the Appellant challenging the Judgment and decree dated 25.08.2025 of the learned District Judge-04, New Delhi, whereby the Suit filed by the Appellant seeking *damages on account of malicious prosecution*, was dismissed as being premature.

6. The genesis of the present Appeal lies in an Application filed by the Respondent under Order VII Rule 11 of CPC seeking the rejection of the Plaint. The learned District Judge *vide* Impugned Order dated 25.08.2025, allowed the Application, holding that the suit was **premature**, as an Appeal against the Appellant's acquittal in the criminal case, was pending adjudication before the High Court of Punjab & Haryana.

7. Aggrieved thereby, the Appellant has preferred the present appeal.

8. **The Appellant had filed a Suit** bearing **CS DJ ADJ 51/2022**, seeking *damages in the sum of Rs. 1,00,00,000/-, on account of malicious prosecution in FIR No. 216/2017 under Sections 323, 376, 452 and 506 Indian Penal Code, 1860 (hereinafter referred to as "IPC")*.

9. The averments made in the Suit were that **Appellant** is a senior decorated officer of the Central Reserve Police Force (CRPF), having served the nation for more than three decades with an unblemished service record and having received several commendations, appreciation letters and rewards, during the course of his service.

10. According to the Appellant, the Respondent lodged a complaint at Police



Station Sector-9A, Gurugram on 30.09.2017, alleging that at about 9:30 AM on the same day, the Appellant/Plaintiff had forcibly entered her residence, used abusive language, physically assaulted her and attempted to commit rape upon her. On the basis of the said complaint, FIR No. 216/2017 was registered against the Appellant on the same day for offences punishable under Sections 323, 376, 452 and 506 of the IPC.

11. The Appellant was arrested on 06.10.2017 and, as stated by him, was subjected to custodial interrogation for about 6 days and thereafter, remanded to judicial custody for approximately 28 days.

12. It is the case of the Appellant that consequent to the said Complaint, he was placed under deemed suspension from service, with effect from 06.10.2017 to 02.09.2020, i.e. for approximately three years, and that the same had serious repercussions on his professional standing, career prospects and reputation.

13. During the period of suspension, Appellant's place of posting was changed from Delhi to Hyderabad *vide* Order dated 23.02.2018. Aggrieved thereby, the Appellant filed *Writ Petition being W.P.(C) No. 3584/2018 before the Delhi High Court*, wherein the operation of the said posting Order was stayed, *vide* an Interim Order dated 16.05.2018. The Writ Petition was disposed of *vide* Order dated 16.01.2019, directing that the interim protection would continue till the conclusion of the cross-examination of the prosecutrix in the criminal trial arising out of FIR No. 216/2017, with a further direction that the Appellant would thereafter, report to the transferred posting.

14. He subsequently preferred a SLP (C) No. 14203/2019 in the Supreme Court, against the Order dated 16.01.2019, which was disposed of *vide* Order dated 14.07.2020 directing the Union of India, to re-examine the issue of his transfer.

15. The criminal case was tried before the Court of the learned Additional



Sessions Judge (Fast Track Court), Gurugram and *vide* Judgment dated 04.10.2019, the Court held that the prosecution had failed to prove the offences alleged against him beyond reasonable doubt, and acquitted the Appellant of all charges.

16. The Government of Haryana subsequently examined the matter and by a communication dated 27.02.2020, decided not to prefer an Appeal, against the Order of acquittal. According to the Appellant, this decision further reinforced his position regarding the falsity of the allegations levelled against him.

17. However, the Respondent independently preferred an Appeal before the High Court of Punjab & Haryana, challenging the Appellant's acquittal in the criminal case.

18. The Appellant made several Representations to the concerned authorities, seeking revocation of his suspension. Ultimately, through Directorate Order No. D-IX-27/2017-CRC dated 03.09.2020, his suspension was revoked and the entire period from 06.10.2017 to 02.09.2020 was treated as "period spent on duty" for all purpose.

19. The Appellant contends that the Complaint lodged by the Respondent, was false and malicious, causing serious injury to his reputation, career and personal life, while also resulting in financial loss and mental trauma. He in support of his allegation of *mala fide* conduct, further points to the Respondent's involvement in multiple disputes.

20. On the basis of the aforesaid circumstances, the Appellant instituted a Suit CS OJ ADJ 51/2022 for seeking compensation of ₹1,00,00,000/- for the mental agony, social stigma, financial loss, and irreparable damage to his personal and professional reputation *due to malicious prosecution*, before the learned District Judge.

21. During the pendency of the Suit, the Respondent filed an Application



under Order VII Rule 11 CPC contending that the Suit was premature, inasmuch as a criminal Appeal against the Appellant's acquittal, had been preferred before the High Court of Punjab & Haryana and was pending adjudication.

22. By the **Impugned Order dated 25.08.2025**, the learned District Judge relied upon the decision of this Hon'ble Court in Trilok Chand Bansal vs. Bharat Bhushan Bansal CS (OS) 470/2016, decided on 23.03.2017 and allowed the Application and rejected the plaint, holding that the suit was premature, in view of the pendency of the Appeal against acquittal and was therefore, barred by law at this stage.

23. Aggrieved, the Appellant has challenged the impugned Order primarily on the ground that the learned District Judge has misconstrued the scope of **Article 74 of the Limitation Act, 1963**. It is contended that the said provision clearly stipulates that a Suit for compensation for malicious prosecution, must be filed within one year from the date ***“when the plaintiff is acquitted or the prosecution is otherwise terminated.”*** According to the Appellant, the language of the provision is plain and does not require that the acquittal must attain finality upon exhaustion of appellate remedies.

24. It is further submitted that the learned District Judge erred in holding that the prosecution had not **“terminated”** in favour of the Appellant, merely because an Appeal against the acquittal, is pending before the High Court of Punjab & Haryana. The submission of the Appellant is that the statute does not use the expression “finally acquitted”. The pendency of an Appeal, therefore, does not postpone the accrual of the cause of action.

25. The Appellant also contends that there exists divergence of judicial opinion on the interpretation of **Article 74 of the Limitation Act**. Reliance is placed upon certain decisions of the Bombay High Court, including Malabai



w/o Pralhad Bhoyar v. Sumanbai w/o Narayanrao Dubey, 2007(1) ALL MR 102 (Bom) and *Nilkanth Baliram Sawarkar v. Vidyanand Balkrishna Ogale*, 2019(2) Mh.L.J. 265(Bom), to contend that limitation for filing a Suit for malicious prosecution, would commence from the date of acquittal.

26. It is **lastly** urged that if the view adopted by the learned District Judge is sustained, an acquitted person may be compelled to await the outcome of appellate or revisional proceedings for several years, or even decades before instituting a Civil Suit for damages. In the present case, the Appeal against acquittal has been preferred by the Respondent–Complainant and not by the State, and the pendency of such Appeal, cannot preclude the Appellant from pursuing his civil remedy.

Submissions heard and record perused.

27. Essentially, the controversy arising in the present Appeal pertains to the question of whether a Suit seeking damages for malicious prosecution, can be instituted immediately upon the acquittal of the Appellant by the Trial Court, or whether such cause of action would arise only after the acquittal attains finality, i.e. upon the disposal of any Appeal preferred against the said Judgment.

28. The relevant facts are not in dispute. FIR No. 216/2017 was lodged on 30.09.2017 against the Appellant. Consequent thereto, the Appellant was arrested, subjected to custodial interrogation and placed under deemed suspension from service from 06.10.2017 until 02.09.2020, which period was subsequently treated as time spent on duty. The criminal proceedings ultimately culminated in the acquittal of the Appellant, by the learned Additional Sessions Judge (Fast Track Court), Gurugram, *vide* Judgment dated 04.10.2019.

29. It is also undisputed that the Respondent/Complainant has preferred an Appeal against the said Judgment of acquittal before the High Court of Punjab & Haryana, which remains pending adjudication. **The question which**



therefore, arises is whether the Appellant could maintain a Civil Suit for damages for malicious prosecution, notwithstanding the pendency of the said Appeal.

30. The legal position in this regard is well settled. Under Article 74 of the Limitation Act, 1963, a Suit for compensation for malicious prosecution is required to be instituted within one year from the date “*when the plaintiff is acquitted or the prosecution is otherwise, terminated.*” The provision thus, contemplates that the criminal proceedings must terminate in favour of the plaintiff, before a claim for damages for malicious prosecution can be maintained.

31. The necessity of finality of criminal proceedings in such cases, has been recognized by this Court in *Laxmi Narayan Soni v. Roop Chand Soni*, 99 (2002) DLT 186, whereit was held that the cause of action for a *Suit for damages for malicious prosecution* arises only when the **Order of acquittal attains finality**, and not merely upon the trial court’s acquittal, while Appellate proceedings are pending.

32. A similar view was taken in *Trilok Chand Bansal (Supra)*, wherein it was observed that a Suit for damages for malicious prosecution instituted during the pendency of an Appeal against acquittal would be **premature**, as the prosecution cannot be said to have finally terminated in favour of the Plaintiff, until the acquittal attains finality.

33. In this context, the scope of Order VII Rule 11 of the Code of Civil Procedure, 1908 also assumes relevance. The provision empowers the Court to reject a Plaint where the claim disclosed therein is barred by law or is otherwise palpably, untenable. Where the *cause of action itself is incomplete*, owing to the absence of final termination of the criminal proceedings, the Suit would not be maintainable.



34. Applying the above principles to the present case, although the Appellant has been acquitted by the Trial Court, the said acquittal is presently the subject matter of an Appeal pending before the High Court of Punjab & Haryana. **The criminal proceedings, therefore, cannot be said to have attained finality.**

35. The Appellant has contended that Article 74 of the Limitation Act refers merely to the date of Acquittal and does not require that such Acquittal must attain finality upon exhaustion of appellate remedies. Reliance has been placed on several decisions of the Bombay High Court, including *Malabai w/o Pralhad Bhoyar (Supra)*, and *Nilkanth Baliram Sawarkar (Supra)*, to argue that the period of limitation commences from the date of acquittal by the Trial Court and is not dependent upon the outcome of any Appellate proceedings.

36. While this Court has considered the said submissions, the issue in the present case is not merely one of computation of limitation, but rather *the maintainability of the Civil claim* itself. A Suit for malicious prosecution inherently rests upon the premise that the criminal proceedings have conclusively terminated in favour of the plaintiff. Where an Appeal against the acquittal is pending, whether preferred by the Complainant or the State, the possibility of reversal of the acquittal, cannot be ruled out.

37. Entertaining a civil claim for damages at such a stage would therefore, be premature and may lead to inconsistent findings, the civil claim being intrinsically linked to the final outcome of the criminal proceedings. If the Appellate court were to interfere with the acquittal, the very foundation of the Appellant's claim for damages for malicious prosecution, could stand materially altered.

38. The Appellant has also urged that the pendency of the Criminal Appeal has resulted in prolonged hardship, including suspension from service, reputational harm and mental distress. While this Court does not disregard the



consequences allegedly suffered by the Appellant, such considerations cannot override the settled legal requirement that the criminal proceedings must terminate finally in favour of the plaintiff, before a civil claim for malicious prosecution, can be maintained.

39. It is also clarified that this Court has expressed no opinion on the merits of Appellant's claim or on the correctness of the judgment of acquittal passed by the trial court, which continues to remain under consideration before the High Court of Punjab & Haryana.

40. An acquittal which is under challenge in Appellate proceedings, cannot be treated as a final termination of the prosecution for the purposes of maintaining a claim for malicious prosecution. In the given circumstances, it cannot be said that a cause of action had accrued to the Appellant, at the time of institution of the Suit.

41. Consequently, this Court finds no infirmity in the view taken by the learned District Judge in rejecting the plaint under Order VII Rule 11 CPC, on the ground that the Suit was premature.

42. **In view of the above discussion, there is no merit in the present Regular First Appeal, which is hereby, dismissed.**

43. The aforesaid Appeal is disposed of in the above terms, along with pending Applications, if any.

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH 12, 2026/RS