

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

+ **C.R.P.No.43/2013**

% **8th September, 2014**

SH. RANDHIR JAIN Petitioner

Through: Petitioner in person.

VERSUS

SMT. VEENA RANI Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not? **Yes**

VALMIKI J. MEHTA, J (ORAL)

1. This petition under Section 115 of Code of Civil Procedure, 1908 (CPC) impugns the judgment of the trial court dated 19.1.2013 by which the trial court has dismissed the suit filed by the petitioner/plaintiff against the respondent/defendant who is a judicial officer for the damages of Rs.3.50 lacs.

2. The sum and substance of the cause of action which is pleaded in the plaint is that the plaintiff states that the respondent/defendant sent a

false complaint to this Court for taking action of criminal contempt against the petitioner, and since the petitioner/plaintiff has been discharged in the criminal contempt vide the order of a Division Bench of this Court dated 29.11.2012, petitioner/plaintiff has to be compensated for harassment and the false complaint which was made by the respondent/defendant.

3. In the year 1850, an Act was passed called The Judicial Officers' Protection Act, 1850. There is only one section in this Act and this section reads as under:-

“1. Non-liability to suit of officers acting judicially, for official acts done in good faith, and of officers executing warrants and orders.-No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: Provided that he at the time in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.”

4. As per the aforesaid Section 1 of the 1850 Act, a judicial officer has immunity even if the order passed is without jurisdiction provided the judicial officer in good faith believed that he had jurisdiction to pass the

order. Therefore, though the judicial officers were given protection/immunity, that was subject to the judicial officer believing in good faith that he had jurisdiction.

5. Finding that this protection given by the 1850 Act was not adequate, legislature passed The Judges (Protection) Act, 1985. Section 4 of the 1985 Act states that 1985 Act is in addition to and not in derogation of the provisions of any other law for the time being in force providing for protection of Judges. Section 3(1) gives blanket immunity to Judges who are doing judicial or official work against filing of civil or criminal cases against them. The only exception for taking action against a Judge is as provided in Section 3(2) of the 1985 Act and which action is to be taken by the Supreme Court or High Court or the Government. Since the 1985 Act contains only four Sections, I am reproducing the entire Act as under:-

“1. Short title and extent.-(1) This Act may be called The Judges (Protection) Act, 1985.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definition. In this Act, "Judge" means not only every person who is officially designated as a Judge, but also every person -

(a) Who is empowered by law to give in any legal proceeding a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or

(b) who is one of a body of persons which body of persons is empowered by law to give such a judgment as is referred to in Cl. (a).

3. Additional protection to Judges.-(1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of sub-sec.(2), no Court shall entertain or continue any civil or criminal proceeding against any person who is or was a Judge for any act, thing or word committed, done or spoken by him when, or in the course of, acting or purporting to act in the discharge of his official or judicial duty or function.

(2) Nothing in sub-sec.(1) shall debar or affect in any manner the power of the Central Government or the State Government or the Supreme Court of India or any High Court or any other authority under any law for the time being in force to take such action (whether by way of civil, criminal, or departmental proceedings or otherwise) against any person who is or was a Judge.

4. Saving.- The Provision of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force providing for protection of Judges.”

6. In my opinion, Section 3 gives complete immunity with the object that a Judge must do his judicial or official work without any fear or without having to be demoralized on account of a thought that the Judge may be subsequently proceeded against in a civil or a criminal court on account of doing judicial or official work. Section 3(1) gives complete immunity with the exception that the only authority who can take the action

against a Judge for any act done by him in his judicial/official capacity would be the High Court or the Supreme Court or the Government.

7. In the present case, referring to the complaint by the respondent/defendant to the High Court for exercising powers of criminal complaint against the defendant would be judicial work because the contempt is of a court and not of a judicial officer. Once the contempt is of a court, the complaint is a complaint with respect to judicial work. In any case, whatever doubt with respect to bar of filing of the subject suit is removed when we refer to the expression 'official' as found in Section 3(1) and which provides that even with respect to official work done by a Judge, a Judge enjoys complete immunity. Surely, when the respondent/defendant sent the complaint to the High Court, the respondent/defendant/ Judge was definitely, if not acting in a judicial capacity, was surely acting in an official capacity ie not in a personal capacity as is being alleged by the petitioner/plaintiff in the plaint.

8. The petitioner/plaintiff who argues his case in person argued that Section 3(1) will not protect a Judge with respect to malafide actions or other actions which would be similar to malafide actions i.e action lacking honesty, however, I do not find any such exception which has been

engrafted in Section 3(1) for allowing of filing of a suit by a litigant or a lawyer or any other person. Even if a Judge is guilty of a particular misdemeanor in his judicial capacity, the only action which can be taken is provided for being taken only by specific authorities viz the Supreme Court or the High Court or the Government. There is hence no remedy provided for filing of a civil or criminal action against a Judge by a private person.

9. In view of the above, I do not find any merit in the petition, and the same is therefore dismissed, leaving the parties to bear their own costs.

VALMIKI J. MEHTA, J

SEPTEMBER 08, 2014

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