

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 21.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**C.R.P. (PD) (MD) No.1179 of 2017****and****CMP (MD) No.5521 of 2017**

Sivalingam

... Petitioner/Petitioner
Plaintiff

Vs.

1.C.Saroja

2.Rathinakumari

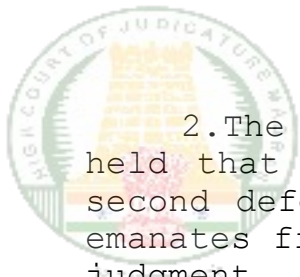
Sub Inspector of Police,
Suchindiram Police Station,
Suchindiram, Agasteeswaram Taluk,
Kanyakumari District.3.The Superintendent of Police,
Agasteeswaram Taluk,
Kanyakumari District.4.The District Collector,
Agasteeswaram Taluk,
Kanyakumari District.... Respondents/Respondents
/Defendants

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decreetal order made in I.A.No.334 of 2016 in O.S.No.24 of 2016 on the file of the Principal Sub Court, Nagercoil, dated 19.01.2017.

For Petitioner : Mr.C.Sankar Prakash

O R D E R

The suit was filed by the Revision Petitioner, seeking for compensation for alleged malicious prosecution. The defendants are the defacto-complainant, the Sub-Inspector of Police, who has filed the final report, the Superintendent of Police, Kanyakumari District and the District Collector, Kanyakumari District. The second defendant, who has filed the final report, in her written statement, had stated that the First Information Report was registered by one Thiru. Thangaraj, Sub-Inspector of Police and he has examined most of the witnesses and completed the investigation. Therefore, I.A.No.334 of 2016 has been filed to implead the said Thiru. Thangaraj, as one of the defendants.



2.The Trial Court, after considering the rival contentions, has held that the final report in the criminal case was filed by the second defendant and therefore, the relief sought for in the suit, emanates from the final report filed by the second defendant and the judgment passed by the Judicial Magistrate-III, Nagercoil. Therefore, to arrive at a conclusion, whether false case was registered against the plaintiff and whether it amounts to malicious prosecution and whether the plaintiff is entitled for compensation can be decided based on evidence let in by the existing defendants and no additional defendant need to be impleaded.

3.In the grounds of revision petition, it is contended by the revision petitioner that the proposed fifth respondent is a necessary party for the proper adjudication of the suit. The said contention is unsustainable, since the cause of action for the compensation of malicious prosecution does not arise by lodging a complaint, but, at the time when the final report is filed and cognizance is taken, by the Trial Court. Between registering the First Information Report and final report is filed, there are several eventuality, i.e., to allow or drop action, thereby closing the petition as "Mistake of fact". Therefore, the person who has exercised his official duty by registering a complaint and setting the criminal law in motion, cannot be roped in as one of the defendants in the suit.

4.Therefore, this Court finds no merit in the Revision Petition. Hence, the revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
The Principal Sub Judge,
Nagercoil.

+1cc to Mr.Mr.C.SANKAR PRAKASH Advocate in SR. NO.61457
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.61623

KM/LS
JS/MR/KKR/SAR.4/7.7.2017/2P-4C

C.R.P. (PD) (MD) No.1179 of 2017
and

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