

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 09.11.2017****CORAM:****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.R.P. (MD) No.2046 of 2017**

Y.Joseph Chandran

... Petitioner/Plaintiff

-Vs-

T.Manohar

... Respondent/Defendant

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to direct the Subordinate Judge, Valliyoor to receive, taken on file and number the suit in O.S.No. (Unnumbered) of 2016 in O.S.Sr.No.5198 of 2016 within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Subbiah, Senior Counsel
For Mrs.Jeesi Jeeva Priya

O R D E R

This Civil Revision Petition has been filed to direct the learned Subordinate Judge, Valliyoor, to receive, taken on file and number the suit in O.S.No. (Unnumbered) of 2016 in O.S.No.5198 of 2016 within a time frame as may be fixed by this Court.

2. The petitioner, as plaintiff, has proposed to file a suit seeking decree for compensation of Rs.5 lakhs in favour of him for malicious prosecution by the defendant in O.S.No. (unnumbered) of 2016 in O.S.No.5198 of 2016.

3. The above suit has been instituted against return of the plaint for certain compliance. While returning the plaint, the learned Judge had mainly stated that the petitioner/plaintiff has not been prosecuted before any Court of Law and only complaint has been lodged and therefore, returned the plaint stating that the defendant is not liable to pay damages.

4. The learned counsel would mainly argue that whether the complaint lodged by the respondent would amount to malicious prosecution or not, could only be decided after trial and after recording evidence and hence rejection of plaint without taking the same on file is erroneous. He would further submit that the learned Subordinate Judge cannot refuse to take plaint on file, unless the returns fall within one or more provisions contained under Order VII Rule 11 of Civil Procedure Code.



5. Heard the learned counsel appearing for the civil revision petitioner and perused the materials available on record.

6. In my considered opinion, if a false complaint made against a person, it is not necessary to prosecute him and even a complaint spoiling the reputation of a person is lodged, that person is entitled to proceed against the other person for damages. Any how, whether the complaint against the petitioner is a false complaint or not and whether he is eligible for any damages and compensation, has to be decided during trial. Therefore, learned Subordinate Judge, Valliyoor ought not to have returned the plaint.

7. On going through the papers, it is seen that returns are made number of times. The learned counsel for the petitioner submits that all deficiencies pointed out by the learned Judge are complied by the petitioner.

8. Considering the facts and circumstances of the case and in the interest of justice, this Court is inclined to issue a direction to the learned Subordinate Judge, Valliyoor. Though there is no prosecution against the petitioner/plaintiff, the learned Judge shall not return the plaint mentioning the said reason. The learned Judge is directed to number the plaint, if otherwise it is in order.

9. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

The Subordinate Judge, Valliyoor.

+1cc to Mr.N.Subramanian, Advocate Sr.No.86109

CM

VB/SV/MMS/SAR1/29/11/2017/2P/3C

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