

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI

WRIT APPEAL No. 1582 OF 2017

DATED 27TH OCTOBER, 2017

Between:

S.Yadagiri

... Appellant

AND

The General Manager (Personnel),
Southern Region, Airlines House,
Meenambakam, Air India,
Chennai – 600027, and another

... Respondents

Counsel for the appellant

: Sri V.Prabhakar Rao

Counsel for the respondents

: Smt. V.Uma Devi

THE COURT MADE THE FOLLOWING

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

Feeling aggrieved by order dated 18-09-2017 in W.P.No. 31432 of 2017, the Writ Petitioner filed this Writ Appeal.

2. The appellant was subjected to criminal trial for offences under Sections 448, 504 and 507 of the Indian Penal Code (for short, 'I.P.C.') on the complaint given by one S.Mohan Kumar, Administrative Officer of Air India. The XI Additional Chief Metropolitan Magistrate, Secunderabad, by his judgment dated 22-08-2016, acquitted the appellant of the charges for the offences under Sections 504 and 507 I.P.C. However, he has convicted the appellant for the offence under Section 448 I.P.C. and sentenced him to pay a fine of Rs.1,000/- and in default of payment of fine, he shall suffer simple imprisonment for a period of two months. The appellant allowed the said judgment to become final.

3. Be that as it may, the appellant filed W.P.No. 31432 of 2017 for a *mandamus* to declare the action of the respondents in initiating criminal prosecution against the appellant as illegal, improper, arbitrary and against the principles of natural justice and for a consequential direction to the respondents to pay exemplary damages to the tune of Rs.50,00,00,000/-. In effect, the claim made in the

Writ Petition by the appellant is in the nature of damages for malicious prosecution. The Writ Petition was dismissed by the learned single judge *in limine* on the ground that the appellant has an efficacious alternative remedy of filing a civil suit.

4. Learned counsel for the appellant submitted that the respondents being the officials of Air India, a Public Sector Organization owned by the Government of India, the Writ is very much maintainable and therefore the learned single judge committed a serious error in dismissing the Writ Petition *in limine*.

5. While it is not in doubt that a Writ against Air India or its functionaries is very much maintainable, however, mere maintainability of Writ Petition would not compel this Court to exercise its extraordinary jurisdiction to entertain a writ involving claims of every nature. As noted hereinbefore, the petitioner claimed damages for malicious prosecution. In order to succeed in his claim, the appellant has to satisfy two aspects, namely; (1) that the respondents prosecuted the appellant maliciously and (2) that he is entitled to damages of Rs.50,00,00,000/- for such malicious prosecution. In our opinion, both these aspects require to be

adjudicated based on oral and documentary evidence to be adduced by the parties. The nature of proceedings under Article 226 of the Constitution of India does not ordinarily permit adjudication of disputed questions of fact. Therefore, the common law remedy of a civil suit is a more appropriate remedy for the appellant to pursue his claim. This is precisely what the learned single judge intended in relegating the appellant to the remedy of a civil suit. In this view of the matter, we do not find any error in the impugned order of the learned single judge.

6. The Writ Appeal is accordingly dismissed.

7. As a sequel to dismissal of the Writ Appeal, W.A.M.P.No. 2935 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

K.VIJAYA LAKSHMI, J.

Date: 27-10-2017.

JSK