

\$~A-40

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

+ C.R.P. 20/2017

VIJAY PRAKASH GOEL

..... Petitioner

Through Mr.Sandeep Kumar and Mr.Sachin
Kumar, Advocates

versus

RAJESH GUPTA & ORS

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

27.01.2017

CM No.3359/2017 (exemption)

Exemption allowed, subject to all just exceptions.

C.R.P. 20/2017 & CM No.3358/2017 (stay)

By the present Revision Petition the petitioner seeks to impugn the order dated 5.12.2016 by which an application moved by the petitioner under Order 14 Rule 5 CPC for framing of an additional issue was dismissed. The petitioner has filed a suit for recovery of Rs.50 lacs on account of unauthorised entry to a banquet hall engaged by the petitioner and for causing defamation/disturbance in a family function resulting in loss of money and reputation against the respondents. The case of the petitioner is that he had engaged a banquet hall for carrying out a family function. The respondents barged in and made a false complaint to the police which caused obstruction to the function. The police took the petitioner to the police station and after questioning the police released him. Hence, the suit has been filed seeking damages.

The court has framed the following issue:-

“(i) Whether plaintiff is entitled for the Damages. OPP

- (ii) Whether the suit is not maintainable. OPD
- (iii) Whether plaintiff has not locus standi to file the present suit. OPD
- (iv) Relief.”

The petitioner sought framing of an additional issue as follows:-

“Whether the false information has been made against plaintiff by the defendants on dated 22.4.2015 to the officer in charge of Police Station Mia Wali nagar Peeragarhi, Delhi or not”OPP

The trial court dismissed the application holding that the issue which is sought to be framed is inherent in the other issues already framed.

From the plaint it is obvious that the petitioner has to first prove that the respondents had filed a false complaint to the police which resulted in loss and damages to the petitioner. In my opinion, the issue which is sought would be an appropriate issue to cover the material proposition of facts at which parties are at variance.

Hence, an opportunity is granted to the petitioner to move an appropriate application for recalling/review of the order dated 5.12.2016 and press for framing of the additional issue. In case such an application is filed the trial court may deal with the same as per law.

Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

JANUARY 27, 2017/n