

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.07.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD)No.1323 of 2015 and
M.P.No.1 of 2015 and C.M.P.No.5811 of 2018

Thirunavukkarasu ... Petitioner

Vs.

1. C.Christopher
2. A.Shankar
3. S.Prabhakaran

... Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 17.02.2015 passed in I.A.No.69 of 2014 in O.S.No.137 of 2013 on the file of the learned IV Additional District Judge, Ponneri.

For Petitioner : Mr.Manoj Sreevalsan
For Respondent : Mr.Dr.R.Sampathi Kumar for R1

ORDER

This civil revision petition has been filed against the order dated 17.02.2015 passed in I.A.No.69 of 2014 in O.S.No.137 of 2013 on the file of the learned IV Additional District Judge, Ponneri.

2 The first respondent filed a suit in O.S.No.137 of 2013 against the petitioner herein and respondents 2 & 3, claiming 15,00,000/- for maliciously prosecuting him by the defendants. The revision petitioner/2nd defendant has filed an interlocutory application in I.A.No.69 of 2014 under Order VII Rule 11 (a) and (d) of CPC to reject the plaint on the ground that the suit is barred by Section 53 of the Tamil Nadu District Police Act, 1859. The trial Court after giving due opportunities to both the parties dismissed the application by order dated 17.02.2015 stating that the suit is not barred by any law and the plaint cannot be rejected at the threshold for the reason stated in the application filed by the petitioner/2nd defendant.

3 Aggrieved against order dated 17.02.2015 made in I.A.No.69 of 2014, the second defendant is before this Court with the present revision petition.

4 The learned counsel for the revision petitioner/2nd defendant would submit that the plaint does not disclose cause of action and the suit filed by the first respondent/plaintiff is barred by

Section 53 of Tail Nadu District Police Act, 1859. Further if any suit lies against the police officials, it should have been filed within a period of three months, but in the present suit is filed beyond the limitation period and on this ground also the plaint has to be rejected. The petitioner herein while discharging his official duty, investigated the matter and filed charge sheet against the petitioner herein, criminal case has been registered and it was ended in acquittal. Hence the plaint has to be rejected on the above grounds. The trial Court erroneously dismissed the application filed by the petitioner.

5 The learned counsel for the first respondent/plaintiff would submit that the first respondent filed a suit against the individual person only and not against the police man and hence Section 53 of the Tail Nadu District Police Act does not applicable to the present case. The trial Court has rightly dismissed the application and there is no reason to interfere with the same.

6 Heard the learned counsel appearing on either side and perused the materials available on record.

7 It is admitted that both the petitioner/2nd defendant and the first respondent/plaintiff are police officials. The main contention of the petitioner is that the plaint does not disclose cause of action and the suit is barred by Section 53 of the Tamil Nadu District Police Act, 1859. On a perusal of the plaint, it is seen that the plaint discloses cause of action and it is not the ground to reject the plaint at the threshold. Further while deciding the application of this nature, the Court has to see the averments made in the plaint, whether it discloses cause of action and it is not barred by any law. The court need not to look into the defence taken by the defendants and the documents produced by them and the Court can take it only as a preliminary issue and the same is not the ground to reject the plaint. The revision petitioner can very well establish his defence by way of filing written statement in the suit.

8 The trial Court has rightly dismissed the application by an order dated 17.02.2015 by giving valid and cogent reasons. There is no reason to interfere with same and this Court does not find any illegality or infirmity in the order of the trial Court in rejecting the

application. Since the suit is of the year 2013, the trial Court is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order.

9 In view of the above reasons, the civil revision petition is dismissed. Consequently connected miscellaneous petitions are closed.
No costs.

02.07.2018

Index: Yes/No
Internet: Yes/No
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Note: Issue order copy on 04.07.2018
To

The IV Additional District Judge,
Ponneri.



WEB COPY

P.VELMURUGAN, J.,

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