

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.4990 OF 2018

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the IX Additional Chief Judge, City Civil Court, Hyderabad in I.A. No.603 of 2015 in O.S. No.737 of 2012 dated 11.06.2018. The petitioner herein filed I.A. No.603 of 2015 to implead respondents 2 to 4 herein as defendants in O.S. No.737 of 2012.

In the affidavit, filed in support of the application, the petitioner alleged that the proposed respondents had, on a complaint being made by his daughter-in-law (daughter of the 1st respondent) registered a criminal case against them; the proposed parties, who are police officials working in different capacities, had tortured him and his son by using third degree methods; and they had taken away cash of Rs.9,89,500/-, 30 tulas of gold and two kgs of silver articles worth more than 10 lakhs besides a revolver.

In the counter, filed on behalf of the petitioner's daughter-in-law, it is stated that, on 20.05.2011, a complaint was filed alleging dowry harassment; FIR No.230 of 2012 was registered against the petitioner and his son; on 22.05.2012, the proposed 4th respondent had apprehended them and had effected seizure of certain articles; and, thereafter, they were released on bail which resulted in a fictitious complaint, with false allegations, being made by them.

In the order under revision, the Court below observed that the Suit was filed in the year 2012 seeking damages; the petitioner had filed WP No.35105 of 2013 seeking investigation against the police officials; while the petitioner had alleged that a long list of

articles had been illegally seized from them, he had filed CrI.RC No.2402 of 2012 seeking recovery of only some seized articles; nowhere, in the said petition, had the petitioner claimed such a long list of articles as put forth in the present petition; and there was force in the contention of the respondents that the proposed respondents were sought to be impleaded only with a view to harass them, since they had investigated into the complaint lodged against them by the 1st respondent's daughter and the petitioners daughter-in-law.

While the submissions urged before the Court below are reiterated before this Court, Mrs. S. Vani, Learned Counsel for the petitioner, is unable to explain the silence of more than three years, after filing of CrI.R.C. No.2402 of 2012, till I.A. No.603 of 2015 was filed seeking to implead the police officials who had allegedly seized articles other than those mentioned in CrI.R.C.No.2402 of 2012. If, as is now contended before this Court, there were other articles, which were surreptitiously seized by the proposed defendants, nothing prevented the petitioner from making such a claim earlier in CrI.R.C. No.2402 of 2012.

The Court below has, on an analysis of the material on record, rightly concluded that the application to implead the proposed defendants, as parties to the Suit, was only with a view to harass them. Under Article 227 of the Constitution of India, the High Court may interfere in cases of errors of law apparent on record, (as distinguished from a mere mistake of fact), arbitrary or capricious exercise of authority or discretion, a patent error in procedure, or where it results in manifest injustice. Interference would be justified if the subordinate court/tribunal has come to a

conclusion without any evidence or upon manifest misreading of the evidence thereby indulging in improper exercise of jurisdiction. If the evidence on record, on a question of fact, has not been taken into consideration, or if relevant and material documents have been ignored while arriving at the finding of fact by the inferior court/tribunal, such finding must be held to be lacking in factual basis. (**Achutananda Baidya v. Prafulla Kumar Gayen**¹; **Mani Nariman Daruwala Alias Bharucha (Deceased) Through Lrs. v. Phiroz N. Bhatena**²; **Baby v. Tranvancore Devaswom Board**³).

Findings of fact can also be set aside or ignored if there is no evidence or the finding is so perverse that no reasonable person can possibly come to the conclusion which the Court has come to. (**Estralla Rubber v. Dass Estate (P) Ltd**⁴; **Mohan Amba Prasad Agnihotri v. Bhaskar Balwant Aher**⁵). Mere errors of fact or of law cannot be corrected unless (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. (**Baby**³).

In the order under revision, the Court below has held that it is the petitioner who was seeking to harass the proposed respondents, and not the other way round. Neither can the order under revision be said to suffer from a patent illegality, nor can the petitioner be said to have suffered substantial prejudice on the application, filed by them, not being entertained. No interference is, therefore, called for in proceedings under Article 227 of the

¹ AIR 1997 SC 2077

² (1991) 3 SCC 141

³ (1998) 8 SCC 310

⁴ (2001) 8 SCC 97

⁵ (2000) 3 SCC 190

Constitution of India. The revision fails and is accordingly dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAMESH RANGANATHAN, J)

Date: 05.10.2018

MRKR

