

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 13.09.2019

Judgment pronounced on : 04.11.2019

Coram

The Honourable Mr. Justice R. Subbiah
and
The Honourable Mrs. Justice T. Krishnavalli

Original Side Appeal No. 198 of 2018

V. Vidya

.. Appellant

Versus

S.R. Jangid, I.P.S.
Additional Director General of Police
Economic Offences Wing
No.2/262, Ganga Street, 4th Main Road
River View Enclave, Manapakkam
Chennai - 600 125

.. Respondent

Appeal filed under under XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent against the Judgment and Decree dated 13.04.2018 passed in O.A. No. 143 of 2018 in C.S. No. 105 of 2018 on the file of this Court.

For Appellant : Ms. V. Vidya
Party-in-Person

For Respondent : Mr. K. Sampath Kumar

JUDGMENT

R. SUBBIAH, J

The appellant, appearing as Party-in-Person, has come up with this appeal questioning the correctness and/or validity of the order dated 13.04.2018 passed by the learned single Judge in O.A. No. 143 of 2018 in C.S. No. 105 of 2018.

2. The respondent herein, as plaintiff has filed the suit in O.S. No. 105 of 2018 against the appellant for the following relief:-

"For a direction directing the Defendant to pay Rs.1,00,00,000/- in favour of the plaintiff towards the damages for defamation for having defamed the plaintiff's public image by sending false, defamatory and libellous repeated petitions based on unsubstantiated facts and surmises for monetary gains and for subsequent interest;

(ii) For permanent injunction against the defendant, her men, agents, subordinates or any one claiming through her restraining from in any manner sending untrue, unfounded, unsubstantiated petitions both on facts and documents in any manner to any authorities and to the media

(iii) Order costs of the suit and grant such other reliefs as may be just and necessary and pass such other orders as this Honourable Court may be deem think fit and proper and thus render justice."

3. Pending suit, the plaintiff/respondent has filed O.A. No. 143 of 2018 to grant an interim injunction restraining the appellant, her men, agents, subordinates or any one claiming through her from in any manner sending untrue, unfounded, unsubstantiated petitions both on facts and documents in any manner to any of the authorities and to the media, either by direct or indirect reference against the applicant/plaintiff pending disposal of the suit.

4. When the Original Application No. 143 of 2018 was listed for hearing on 07.03.2018, this Court granted an interim injunction as prayed for by the respondent herein and notice was ordered to be served on the appellant herein. On notice, the appellant appeared before this Court on 13.04.2018, on which date, the learned single Judge, after hearing the counsel for the respondent herein as well as the appellant/party in person, has made the interim injunction absolute. In the said order dated 13.04.2018, it has been stated that the appellant/party in person appeared and submitted that she will not make any complaint against the respondent/plaintiff. Challenging the order dated 13.04.2018, the appellant has filed the present Original Side Appeal. However, during the pendency of this appeal, the appellant herein has filed Application No. 4948 of 2018 in O.A. No. 143 of 2018 in C.S. No. 105 of 2018 seeking modification of the order 13.04.2018 passed in O.A. No. 143 of 2018 in C.S. No. 105 of 2018. Precisely, the appellant herein has filed O.A. No. 4948 of 2018 for the following relief:-

"It is therefore prayed that this Honourable Court may be pleased to modify and correct the decreetal order and the Judgment in O.A. No. 143 of 2018 in C.S. No.1 05 of 2018 dated 13.04.2018 as the applicant/respondent/defendant had never made any submission in so far as that I will not make any allegation or send any complaint against the respondent/petitioner/plaintiff is concerned which has been wrongly recorded instead the applicant/respondent/defendant had only made a submission that I will not make any false allegation or send any false complaint wherein the prefix false has been omitted/missing before the word allegation and complaint and hence wrongly recorded in the above suit and request to modify and and correct in the decreetal order and the Judgment in O.A. No. 143 of 2018 in C.S. No. 105 of 2018 dated 13.04.2018 in the above suit.

5. This application in A. No. 4948 of 2018 filed by the appellant herein was taken up for hearing by the learned single Judge on 08.02.2019. The learned single Judge, considering the grievance of the appellant/party in person that the word 'false' has to be prefixed before the words 'allegation and complaint' modified the order of injunction to the effect that "The Party-in-person has submitted that she will not make any false allegation or send false complaint against the plaintiff". Thus, the claim of the appellant/party in person for modification of the earlier order passed in O.A. No. 143 of 2018 was entertained and a modified order was passed on 08.02.2019. Notwithstanding the same, the appellant herein has filed the present appeal assailing the order dated 13.04.2018 passed by the learned single Judge making the interim order of injunction granted on 07.03.2018 absolute.

6. Ms. Vidya, appellant-in-person vehemently contended that on notice in the suit as well as O.A. No. 143 of 2018 for interim injunction, she appeared before the learned single Judge on 13.04.2018. On that day, this Court advised her not to forward any false allegation against the respondent for which she answered that she had never made any false accusation against the respondent and no false allegation would be made against him even in future. However, in the order dated 13.04.2018, the learned single Judge had erroneously recorded as if the appellant should not send any complaint at all against the respondent herein. According to the appellant, she has not given any undertaking before this Court to the effect that she

will not make any allegation or send complaints against the plaintiff/respondent. It is further submitted that hitherto, the appellant had preferred various complaints against the respondent herein highlighting the atrocities he committed towards her and they are pending at various stages, while so, restraining the appellant from preferring any complaint at all against the respondent is unreasonable. In any event, the appellant had never given any undertaking before the learned single Judge and therefore, the reasons based on which the order dated 13.04.2018 passed in O.A. No. 143 of 2018, making the interim injunction granted on 07.03.2018 absolute, is liable to be set aside.

7. The learned counsel for the respondent, by placing reliance on the counter affidavit of the respondent, would only contend that the learned single Judge correctly recorded the submission of the appellant to the effect that she should not send false or unsubstantiated complaints against the respondent and it calls for no interference by this Court and he prayed for dismissal of this appeal.

8. We heard the appellant/party-in-person as well as the learned counsel for the respondent and perused the materials placed on record.

9. The respondent herein has filed the suit for damages against the appellant herein. Pending suit, the respondent has filed O.A. No. 143 of 2018 for grant of interim injunction. The learned single Judge passed an order dated 07.03.2018 granting interim injunction and also ordered notice to the appellant/party in person. Subsequently, when O.A. No. 143 of 2018 was listed for hearing on 13.04.2018, the learned single Judge, after hearing the appellant/party in person and taking note of the fact that the suit itself was filed by the respondent herein for damages against the appellant for having allegedly made various unsubstantiated averments against him, has made absolute the order of interim injunction restraining the appellant from making any further complaint against the respondent/plaintiff. The said order dated 13.04.2018 is challenged in this appeal. However, during the pendency of this appeal, the appellant filed an Application No. 4948 of 2018 before the learned single Judge for modification of the order dated 13.04.2018 making the interim injunction absolute, which is challenged in this appeal. The said Application No. 4948 of 2018 was also entertained by the learned single Judge and a modified order dated 08.02.2019 was passed. The order dated 08.02.2019, modifying the earlier order passed by the learned single Judge, is not put to challenge by the appellant. What is

challenged in this appeal is the order dated 13.04.2018 making the order of interim injunction absolute, which was subsequently modified by the learned single Judge on 08.02.2019 at the instance of the appellant/party in person.

10. It is seen that in the order dated 08.02.2019, the learned Judge had in fact entertained the application filed by the appellant for modification and modified the order of injunction to the effect that the appellant shall not make any 'false' allegation against the respondent herein, meaning thereby, the appellant is not restrained from preferring any genuine complaint or representation against the respondent herein or to pursue the complaints already preferred by her. It is not known as to whether the pendency of this appeal against the order dated 13.04.2018 was brought to the notice of the learned single Judge when the order dated 08.02.2019, was passed modifying the earlier order dated 13.04.2018, which is the subject matter of this appeal. In any event, even by reason of the order of injunction granted by the learned single Judge, the restriction is that the appellant should not indulge in making any false accusations against the respondent herein without any material to substantiate such allegations. This is more so that the respondent herein has filed the suit for damages from the appellant herein for having made unsubstantiated allegation against him. Therefore, the apprehension of the appellant, as stated in para No.7 of the Memorandum of Grounds of Original Side Appeal to the effect that the order of the learned single Judge had deprived her right as an aggrieved person to exhaust any remedy before the appropriate authority or the court of law, has to be allayed. It is reiterated that by reason of the order passed by the learned single Judge, the fundamental right of the appellant to ventilate her genuine grievance before the appropriate authority has not been curtailed or taken away. The intention of passing the order is to restrain the appellant from indulging in making unnecessary and unsubstantiated allegations against the respondent and that does not mean that the appellant was restrained from exhausting her genuine grievance before the appropriate authority. This is also clarified by the learned single Judge in the order dated 08.02.2019 during the pendency of this appeal, in her own application and the clarification issued on 08.02.2019 would adequately protect the appellant from pursuing the cases already filed by her. In such circumstances, we are of the view that the learned single Judge had rightly granted the order of interim injunction and subsequently made it absolute. Further, the order dated 13.04.2018, which is challenged in this appeal, has been modified by the learned single Judge on 08.02.2019 and therefore, the appeal itself cannot be entertained. The present attempt on the part of the

appellant in filing a petition for modification of the order dated 13.04.2018 and getting a modified order dated 08.02.2019 during the pendency of this appeal is not bonafide and it is only an attempt to give vent to her desperation. We also find that by reason of filing the present vexatious appeal, the appellant had wasted the valuable time of this Court, which this Court could have otherwise judiciously utilised in disposing of a lis involving a substantial question of law. Therefore, we hold that the present appeal is devoid of merits and it is liable only to be dismissed.

11. For all the above reasons, we dismiss this Original Side Appeal with costs of Rs.25,000/- payable by the appellant to the Honourable Chief Justice Relief Fund, High Court, Madras. Post this appeal for reporting compliance after four weeks.

Sd/-
Asst.Registrar (CS I)

/true copy/

Sub Asst. Registrar

rsh

To

1.The Assistant Registrar
Original Side
High Court Madras-104

2.The Sub Assistant Registrar
Accounts Section
High Court Madras-104

+1 cc to Mr.V.Vidhya party-in person Advocate sr78776

WEB COPY

OSA No. 198 of 2018

aa11/12/2019