

APPLICATION NO.3776 OF 2015

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M.GOVINDARAJ, J.

The application is filed under Or.14 R.8 of O.S. Rules r/w. Or.7 R.11 of C.P.C and Art.56 of the Limitation Act.

2. The applicants are the defendants in the suit. The respondent filed a suit for defamation claiming Rs.50,00,000/- as compensation towards damages suffered by him along with interest. The cause of action in the suit was that the legal notice issued by the defendants containing defamatory allegations affecting the reputation of the plaintiff on 02.08.2012 and another lawyer's notice sent on 10.12.2012 to the plaintiff as well as Indian Oil Corporation, Police complaint lodged by the defendants on 17.06.2013 against the plaintiff and a reply notice dated 17.11.2013 to the legal notice issued by the plaintiff on 07.11.2013.

3. From the cause of action and the averments contained in the plaint, it is clear that the moral standards of the plaintiff set to have been damaged by issuing legal notices and filing of complaints before the Police.

4. The applicant/defendant has taken a stand that the plaint does not disclose any cause of action as issuance of legal notice will not amount to defamation. Even assuming it amounts to defamation, it should be filed within one year from the date on which the cause of action arose as per Art.75 of the Limitation Act. Since the suit is filed on the basis of a legal notice issued on 10.12.2012, it was taken on file only on the year 2014 which is barred by limitation.

5. I considered the rival submissions.

6. It is a well settled principle that the lodging of Police complaint in the statement made therein will not amount to publication to give rise to any cause of action for claiming compensation for defamation. Any complaint lodged before the law enforcing machinery has to be enquired and a decision

had to be taken. Even after the decision of the Police after investigation or after the judgment by a Criminal Court that the complaint is false, it will give to a cause of action to file a case for malicious prosecution. Likewise, issuing legal notice to the other party as it is exchange of claim or demand to do or not to do certain things between the stake holders and it will not amount to publication and therefore, will not give rise to any cause of action for defamation. This Court in C.R.P.(PD)No.547 of 2012 in the case of A.N.Shanmugam vs. G.Saravanan by its judgment dated 09.1.2015 has held as under:

“13.If every complainant, who lodges a complaint with the Law Enforcing Agency for imputation against the persons accused are to face civil cases for defamation on the premise that the imputations, according to the accused, are false, many people fearing such actions on the part of the accused, may not come forward to lodge a complaint to the Law Enforcing Agency. When an imputation has been made in a complaint made to the Law Enforcing Agency with the belief that such Agency would take criminal action

against the persons against whom such imputation are made, the same will provide a valid exception taking such act outside the scope of tort of defamation. Besides, the lodging of the complaint with the police could not be considered to be a publication of a defamatory statement. If at all any wrong is committed by lodging a false complaint with the police and thereby setting the criminal law in motion, it may amount to malicious prosecution, for which action can be taken only after the disposal of the criminal case, wherein a specific finding shall be given to that effect.

In yet another judgment of this Court in CrI.R.C.(MD)No.414 of 2014,

A.Mohan vs. A.Arulraj by its order dated 10.02.2015 has held as follows:

“6. Insofar as the first part of the complaint is concerned, this Court is of the view that the legal notices are exchange between the parties and even for the sake of argument, the notices contain some defamatory statement and it cannot be construed as defamatory for the reason that only the concerned parties, who exchange

notices, are said to be aware of the same.”

In the judgment of High Court of Bombay at Goa, in the case of
Laxman Jairam Malvakar vs. Reshma Ramesh Narvekar,
MANU/MH/0661/2012 it has been held thus:

“ 25.... Police are the authorities before whom complaints for criminal act against anyone can to be filed. Police have the authority to investigate into the said complaints. Therefore, merely by lodging complaint with police, no one may commit the offence of defamation. Admittedly, there was a civil litigation pending between the plaintiff's brother and the family of the defendant no. 1. The plaintiff has not produced any evidence to prove that the police, after investigation, found that the said complaint was false and fabricated. The plaintiff has not proved that it is the defendant no. 1 who caused to publish the contents of the complaint in the newspaper. The defendant no. 2 has published the news about the complaint which has been admittedly lodged at Bicholim Police Station. The news does not state that the contents

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of the complaint are true. The plaintiff has also failed to prove that the defendant no. 2 published the news with a view to defame the plaintiff.”

All these judgments goes to show issuance of legal notice or reply to the legal notice and lodging of Police complaint will not amount to making defamatory statement and that will not give rise to any cause of action in the suit. In that view of the matter, the suit does not disclose a valid cause of action for maintaining the same and therefore, the plaint stands rejected as there is no cause of action to maintain the same. Application is allowed.

09.07.2020

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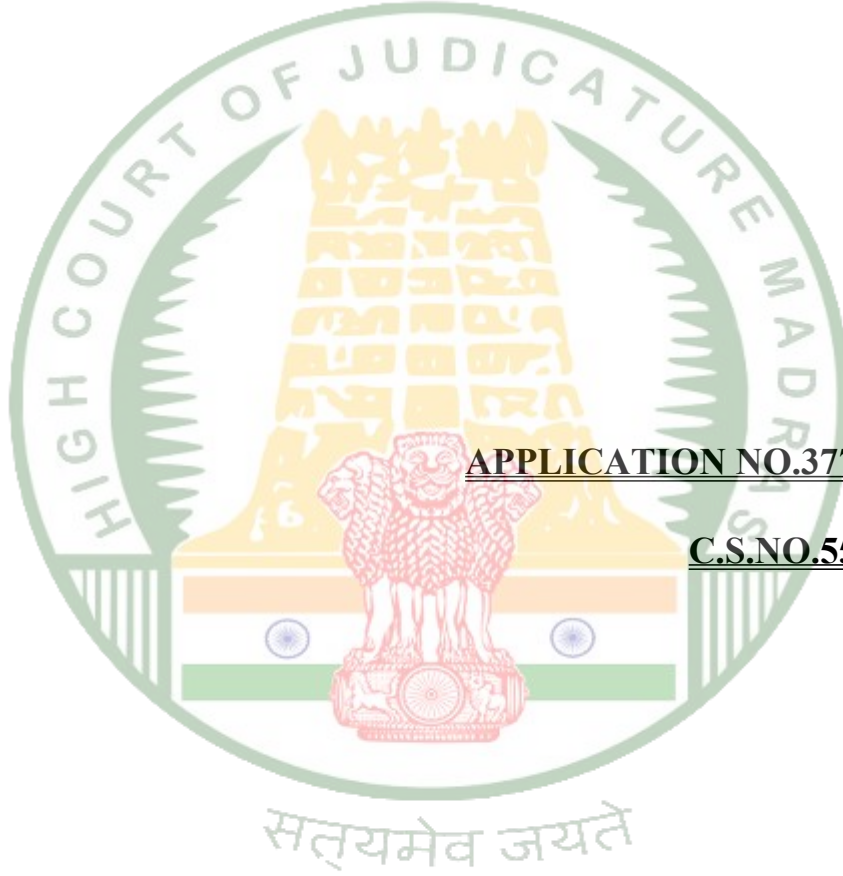
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