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A.No.3902 of 2022

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in

C.S.No.101 of 2022

Reserved on 29.03.2023	Delivered on 07.06.2023
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K.KUMARESH BABU,J.

This application has been filed at the instance of the defendant seeking to reject the Suit under Order 7 Rule 11 (a&d) of CPC.

2.The instance Suit had been filed by the respondent/plaintiff seeking for a decree in his favour to direct the applicant/defendant to pay a sum of Rs.1,00,00,000/- as damages for a loss of goodwill and reputation in view of the publications made in various news papers based on the information given by the applicant/defendant and for permanent injunction restraining the applicant/defendant from making any disparaging the statement effecting the image of the respondent/plaintiff in the eye of in any publication whatsoever.

3. The applicant/defendant is the brother of the son-in-law of the plaintiff. A family dispute had arisen between the applicant/defendant



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and his brother, which had led to certain civil disputes. Pending civil dispute, the applicant/defendant seems to have filed a complaint as against his brother and also the plaintiff herein and other relatives, which according to the plaintiff had tarnished his image, reputation and goodwill among the public. A FIR filed by the applicant/defendant had also been quashed during the pendency of the Suit. An application to reject the plaint had been filed by the applicant.

4. Mrs.Selvi George, learned counsel appearing for the applicant/defendant would submit that no cause of action had arisen for the plaintiff to initiate the suit much less the Suit is also barred by law. She would further submit that there are no defamation that has been made by the applicant/defendant, he had only initiated a criminal complaint as against the atrocities committed by the respondent/plaintiff to snatch-away the property of the applicant/defendant. The complaint had been published as the news item in various newspaper and TV channel and the same was not at the instance of the applicant. Filing of a complaint cannot be termed “as a defamation”. She would further submit that when there is no defamation that can be attributed to the



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applicant, there is no cause of action for filing a present suit. It is true that the complaint filed by the applicant had been quashed, an appeal had been filed by the State and the applicant need not file an independent appeal. She would also submit that when the Suit was initiated, the FIR was intact and the same had been quashed subsequently and therefore, quashing of the FIR in favour of the respondent/plaintiff cannot be taken as ground to proceed with the Suit that had been filed much prior to the quashing of FIR. Therefore, she would pray this Court to reject the plaint.

5. Mr.M.Aravind Subramaniam, learned Senior counsel appearing for the respondent/plaintiff would submit that the complaint relates to an incident which had occurred much earlier in point of time and that has been made by the respondent/plaintiff only to defame him and bring ill reputation to him. He would submit that the claim made by the applicant that during the relevant point of time, the respondent/plaintiff was a Minister and all powerful for him to set in law in motion, is wholly ill founded for the simple reason that he had been out of the ministry from May 2021, as there was a change in



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political party. This complaint had been made very much after the said date and the complaint had been filed after a period of 9 months only on 24.12.2022. This itself would suffice to come to a conclusion that there was malice and ill motive in filing the complaint with an intention to defame, bring ill reputation to the respondent/plaintiff. Further he would submit that these facts are all have to be gone into during the course of the trial and not at the present state. He would further submit that neither the grounds of Order 7, Rule 11 (a&d) of CPC are made out in the application and therefore he would pray before this Court to dismiss the present application.

6. I have considered the rival submissions raised by the respective parties and perused the materials placed on record.

7. The Application has been filed under Order 7, Rule 11 (a&d) CPC and Order 7, Rule 11 envisages return of a plaint in certain circumstances and the present application had been filed under clause (a&d) of Rule 11 CPC. Clause (a) relates to non disclosure of a cause of action; clause (d) is bar of a Suit by any law. It has been repeatedly held



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by our Court as well as the Hon'ble Apex Court that while dealing with an application under Order 7, Rule 11, the Court will have to look into the plaint averments alone and nothing else. From a reading of the plaint averments, the plaintiff in clear terms had pleaded that there is a cause of action for institution of the Suit. The averments raised by the applicant/defendant in his application are all have to be established during the course of the trial and if the applicant is able to substantiate his averments, the Suit claim could always be rejected. Even though the application had been filed even under clause (d) to Rule 11 of Order 7, there is no averment in the application as to how the Suit is barred by any law. Therefore, I do not find any merits in the application filed by the applicant/defendant.

8. In fine, the application is dismissed. However, there shall be no order as to costs.

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Pre-delivery Judgment in

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