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CRP.No.2466 of 2



THE HIGH COURT OF JUD ICATURE AT MADRAS

DATED: 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

**C.R.P.No.2466 of 2021**

K.Selvaraju

...Petitioner

Vs.

K.Tamilselvan

...Respondent

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India, against the order dated 14.09.2021 passed in unnumbered I.A.No... of 2021 in O.S.No.40 of 2011 on the file of the learned Principal District Judge, Namakkal.

For Petitioner : Mr.N.Subramaniyan

For Respondent : Mr.L.Mouli

**ORDER**

Aggrieved by the order passed by the learned Sub-ordinate Judge, Namakkal returning the petitioner's application filed under Section 340 Cr.P.C., seeking to prosecute the respondent for tendering false evidence before the Court, the petitioner has come up with this revision.

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2. The facts that led to filing of the revision is as follows:-

The respondent filed a suit in O.S.No.40 of 2011 seeking recovery of a sum of Rs.12,47,983/- due and payable under a promissory note dated 10.08.2008 allegedly executed by the petitioner for a principal sum of Rs.9,50,000/-. Claiming that the petitioner has not paid either the principal or the interest, the said suit was filed for recovery. The suit came to be decreed after contest and an appeal against the said judgment was also dismissed by this Court.

3.The petitioner, who is the defendant in the suit filed two applications. One for re-calling the judgment and other to prosecute the respondent / plaintiff in the suit for having tendered false evidence. The claim that the respondent had tendered false evidence was based on his evidence in a Maintenance Case filed by his wife seeking monthly maintenance wherein, the respondent had claimed that he had no source of income and he was not working abroad as alleged.

4.It was also contended that he had deposed that he was not the owner of the business called "Cool World", situate at Namakkal-Trichy



road, engaged in selling of Air Conditioners. Pointing out the contradictions in the evidence tendered in the suit and the evidence tendered in the maintenance cases, the petitioner sought for prosecution of the respondent on the ground that he has deposed falsely before the District Court in the suit along with this application filed under Section 340 of Cr.P.C. Another application was filed to re-call the judgment.

5.The learned Trial Judge rejected the petition for re-calling the judgment and returned the petition for prosecution citing the same grounds on which the application for re-calling the judgment was rejected.

6.I have heard Mr.M.N.Subramaniyan, learned counsel for the petitioner and Mr.L.Mouli, learned counsel for the respondent.

7.I find that the order of return cannot be sustained. A serious allegation of production of false evidence or perjury is made against a party proceeding, the Court has to necessarily examine the same. From a reading of the depositions that are available would show that there are contradictions in the claims made by the respondent before the Civil Court in his suit for recovery and before the Criminal Court in an application for



maintenance filed by his wife. Both depositions cannot be true. One of them will have to be false.

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8.In the light of such evidence, I find that the return of the application on the ground that the application to set aside the decree has been rejected is wholly unjustified. The Trial Court ought to have numbered the application and decided as to whether there was any perjury committed so as to enable prosecution.

9.In view of the above, this Civil Revision Petition is **allowed**, the order of the Trial Court, returning the application is set aside. The Trial Court is directed to number the application filed under Section 340 of Cr.P.C., r/w. 195 of the Indian Penal Code in Sr.No.5844 dated 06.07.2021 and dispose of the same in accordance with law after notice to the respondent. No costs.

09.01.2024

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Internet:Yes  
Index:No  
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Neutral Citation :No

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To:-

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The Principal District Court,  
Namakkal.

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**R.SUBRAMANIAN, J.**

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