



CRP(MD).No.437 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGO VAN

CRP(MD).No.437 of 2024 and
CMP(MD).No.2223 of 2024

1.P.Yesudoss

2.P.Raja

3.D.Dinesh

... Petitioners

Vs.

1.A.Pushpam

2.M.Amala Iruthaya Muthu

3.C.Anbazhagan

... Respondents

PRAYER:- Petition filed under Article 227 of the Constitution of India against the fair and decreetal order made in I.A.No.1 of 2022 in O.S.No. 166 of 2021 on the file of the Subordinate Court, Tiruchendur, dated 15.11.2023.

For Petitioners : Mr. P.Prithivirraj

ORDER

The suit in O.S.No.166 of 2021 was filed by the respondent herein viz., Pushpam seeking the relief of recovery of damages for the damage caused to her properties at the hands of the defendants and for



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petition making the observations that neither in the Victim Compensation Scheme nor under the Civil Procedure Code the suit is barred on the basis of the Judgment of the Hon'ble Supreme Court reported in **2020(1)CTC 842 (M.Hariharasudhan Vs. R.Karmegam and others)**, it was dismissed. Against which, the present revision is preferred.

5. In the plaint, the plaintiff has stated that on 06.02.2019 at about 5.00 hours the defendants formed un-lawful assembly with deadly weapons and tress-passed into the plaintiff's fishing room in the shore and set fire to the tools and fishing yarns etc., Extensive damage was caused to both moveable and immovable properties. The case was registered in Crime No.64 of 2019 for the offences under Sections 147, 323, 427, 436 and 506(i) IPC.

6. The learned counsel appearing for the petitioners submitted that in respect of the very same occurrence case in Crime No. 345 of 2018 was also registered on the basis of the complaint given by one Rajan. Against that proceeding, Peace Committee Meeting was conducted and in the said Peace Committee meeting the matter was resolved between the parties. Taking note of the above said development



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direction was issued to the police to close the case in Crime No.345 of 2018 by pointing out the same learned counsel for the revisions petitioners would submit that since the matter is amicably settled between the parties the suit is filed by the plaintiff without any proper reason.

7. The subject matter of Crime No.64 of 2019 was not considered by this Court in Crl.O.P(MD).No.632 of 2019. In the plaint the plaintiff has stated that extensive damage was done to her movable and immovable properties. Simply because the victim compensation scheme is available and hence, the rights of the parties to take recourse to the civil litigation is not barred under Section 9 of the CPC.

8. Section 9 of CPC reads as follows:

“9. Courts to try all civil suits unless barred: The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.”

Unless the suit is barred, the plaint cannot be rejected. Even though the purpose and effect of victim compensation scheme was



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considered in the Judgment cited by the trial Court, I find that whether any damage was caused and whether there was any compromise between the parties subsequent to the occurrence are all factual matters which must be gone into at the time of trial. So none of the ingredients under Order 7 Rule 11 CPC are attracted.

9. I find absolutely no illegality or irregularity in the order passed by the trial Court. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.02.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

The Subordinate Court, Tiruchendur,



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G.ILANGO VAN,J.

Trp

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