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A. No.3241 of 2025

in

C.S. No.1 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

A. No.3241 of 2025

in

C.S. No.1 of 2023

Himanshu Pathak

..... Applicant / 1st Defendant

Vs.

M/s. Star Health and Allied Insurance Company Limited,

Having its registered office at

No.1, New Tank Street, Valluvar Kottam High Road,

Nungambakkam, Chennai-600 034.

Represented by its authorized signatory

Amarjeeli Shanuja

Chief Information Security Officer.

.... 1st Respondent / Plaintiff

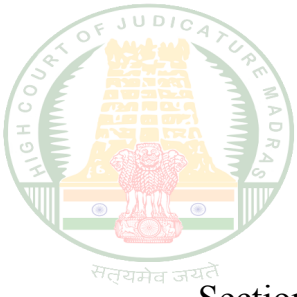
2. Akshit

.... 2nd Respondent / 2nd Defendant

PRAYER: This application has been filed under Order XIV Rule 8 of

Original Side Rules and with Section 195 read with 340 Cr.P.C. read with

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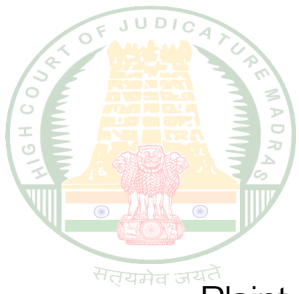
Section 229 of B.N.S.

For petitioner : Mr. Vaibhav R. Venkatesh
For Respondents : Mr. Krishna Srinivasan
Senior Counsel
for M/s. Ramasubramaniam
and Associates

ORDER

This application has been filed to initiate proceedings against the respondent / Plaintiff for perjury under Section 195 read with 340 Cr.P.C. read with 229 of BN.S.

2. According to the applicant, the respondent / Plaintiff has filed a Suit in C.S. No.1 / 2023 for the relief of permanent injunction, mandatory injunction and to direct the defendants to pay a sum of Rs.5 crores as compensation to the Plaintiff for illegally accessing the IT systems of the Plaintiff and gaining / attempting to gain illegal and unauthorized access to the information relating to Plaintiff and its customers. In para 11 of the



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Plaint, it is alleged that the applicant / 1st defendant had allegedly used a tool

called as “burp suite” to penetrate the IT and data system of the respondent /

Plaintiff and also stated that the burp suite is a set of tools which are used for

penetration testing of web application as the said tools are used by hackers to

gain illegal and unauthorized access to the IT systems and data of the

respondent / Plaintiff is illegal. The said averment is on oath. Per contra to

the averment in the Plaint, the respondent / Plaintiff has filed a document

wherein the respondent / Plaintiff themselves have placed an order of the

Burp suit software and have attached its bill. In the said bill, they had placed

the Burp suit pro software with the Cognizant Technology referred by the

respondent / Plaintiff as Doc 6 in the documents filed along with the Plaint.

Therefore, those averments are false on the face of it and it is just and

necessary that necessary actions are to be taken. The respondent / Plaintiff

had informed to the Government Agency namely CertIN which the

respondent / Plaintiff annexed in its Plaint document in its mandatory cyber



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security incident disclosure form for companies, wherein the respondent /

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Plaintiff had disclosed at Page 160, Document 17 of the Suit documents filed

along with the Plaint, that no loss had occurred in the incident. Whereas in the

Plaint, prayed that the loss was occurred to the tune of Rs.5 crores to them.

All these allegations are purely imaginary and constitutes a clear act of

perjury.

2.1. Further, in the Plaint document No.17 at Page No.160, they stated

that “to exploit a lesser known vulnerabilities” which means the respondent /

Plaintiff clearly knew about the vulnerabilities and left them intentionally.

Therefore, they have to be punished for perjury. Further, through email dated

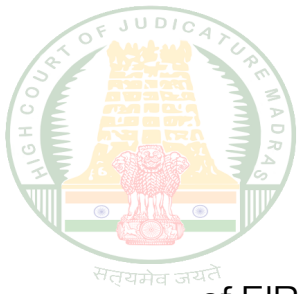
21.12.2022, the respondent / Plaintiff have misrepresented and falsely stated

to the Insurance Regulatory Authority namely IRDAI that policy bazaar had

lodged formal complaint and registered FIR No.1232 dated 20.07.2022.

There was no such FIR registered at the relevant point of time and the number

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of FIR is also not correct. Further in Para 12 of the Plaint, they stated that the applicant /defendant is engaged in illegal /unauthorized hacking in the case of Punjab National Bank, Vodafone, CDSL, etc., All these are completely shocking and false on the face of it. All the said allegations are done with an intention to tarnish the reputation of the applicant and the same is prima facie false. Therefore, the respondent /Plaintiff has to be punished as per law and hence, he filed this application.

3. According to the 1st respondent /Plaintiff, paragraph no.11 of the Plaint does not make any allegations regarding “Burp suite” software as wrongly stated in the said affidavit. The averments relating to the said software are stated in paragraph 13 of the Plaint. The averments relating to the said software have been made based on the technical inputs received by the 1st respondent and therefore, such statements cannot be considered as perjury and such statements are only allegations and not evidence to be



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considered as perjury. The applicant seeks to draw a parallel between his illegal actions and the 1st respondent's engagement of M/s.Cognizant Technology Solutions India Private Limited as mentioned above. In fact, M/s. Cognizant Technology Solutions India Private Limited was formally engaged by the 1st respondent through a duly authorized mandate to carry out Vulnerability Assessment and Penetration Testing (VAPT), strictly in accordance with the regulatory framework laid down by the Insurance Regulatory and Development Authority of India (IRDAI). The utilization of tools such as Burp Suite was undertaken exclusively within the scope of this engagement and under full regulatory compliance. The averments made in para 4 to 6 are totally denied as baseless. The document No.17, referred in the affidavit, was issued immediately after the incident of unauthorized access and exfiltration of data by the applicant and therefore, it clearly states that a detailed investigation has been initiated.



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3.1. The Doc. No.17 is a preliminary report issued to the Government Agency namely CertIN immediately after the unauthorized access and exfiltration of the data by the applicant. After investigation and enquiry, the 1st respondent has ascertained the wrongful acts of the applicant and therefore, initiated legal proceedings both criminal and the present Suit to redress its grievances and to recover monetary loss as claimed in the present Suit. The contents of paragraphs 7 to 9 of the said Affidavit are denied as false and baseless. The 1st respondent came to know that the applicant was engaged in illegal /unauthorized hacking in respect of several entities. This allegation is based on the background verification from the internet and therefore, cannot be considered as perjury. The allegations made in the pleadings are not evidence to constitute perjury as wrongly alleged in the said affidavit. The 1st respondent has not made false statement or committed perjury. The statements alleged to be perjury in the said affidavit filed by the applicant are allegations based on the advice, understanding, preliminary enquiry, internet

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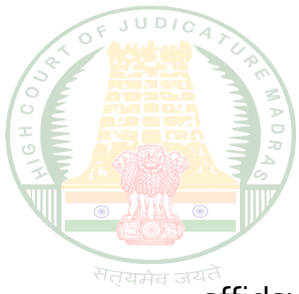
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verification etc., done by the 1st respondent and the same has been

categorically stated in the Plaint. Therefore, such allegations are firstly pleadings and not evidence and, in any event, cannot be considered as false statements so as to constitute perjury. Section 193 of the India Penal Code, does not stand attracted since B.N.S. came into effect on 01.07.2024 itself. This application has been filed with an intention to delay the proceedings. Therefore, the application is liable to be dismissed.

4. The learned counsel appearing for the applicant would submit that the 1st respondent /Plaintiff filed the Suit as against the applicant for the relief of permanent injunction, mandatory injunction and to direct the defendants to pay a sum of Rs.5 crores as compensation to the Plaintiff for illegally accessing the IT systems of the Plaintiff and gaining / attempting to gain illegal and unauthorized access to the information relating to Plaintiff and its customers. In the said Plaint, he made false allegations and also filed false



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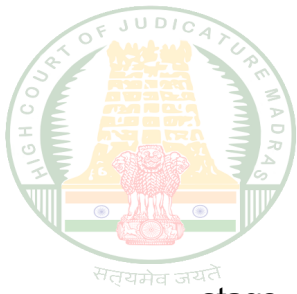
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affidavit in para no.11 of the Plaint and in the affidavit, in para nos.11 and 12,

they have made false statements and the same have prima facie on the face of records. The statements made in the Plaint are contrary to the document no.7 filed by them. They falsely stated that FIR has been registered in FIR No.1882 dated 20.07.2022. In fact, no such FIR has been registered. Therefore, they committed act of “perjury” and hence, they have to be punished in accordance with law.

5. The learned counsel appearing for the respondent /Plaintiff would submit that they have not committed “perjury” or any other offence and they have only pleaded in the Plaint and the Plaint averments are based on the verification from the internet and the Plaint allegations are pleadings and not evidence. Even those allegations are based on the preliminary enquiry done by the 1st respondent and the same was also categorically stated in the Plaint. Moreover, the Plaint allegations have to be tested through trial and at this

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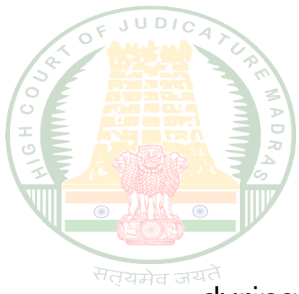
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stage, it cannot be termed as “perjury” and the parties have to prove the allegations through trial. Therefore, at this stage, the application is not maintainable and is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. The applicant has filed this application to take action against the respondents for the false statements made in the Plaint. The respondents denied the allegations made in the affidavit of the Plaint and according to him, the Plaint allegations are based on the verification from the internet, advice, understanding, preliminary enquiry done by the 1st respondent. The applicant has mainly relied upon the Plaint averments stating that those allegations are false allegations. Since the stage is at pleading stage and those allegations found in the Plaint are to be decided through trial and without trial, the allegations cannot be decided at this stage. Therefore, the applicant can very well establish his case including any false statements made by the Plaintiff



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during trial by examining witnesses. After trial, the Court can consider whether any “perjury” committed by the respondent /Plaintiff as alleged in the application. Therefore, at this stage, the application is not maintainable and the prayer of the applicant cannot be considered and the applicant is at liberty to convince the Court at the time of final arguments in respect of false allegations made in the Plaint. Moreover, if any false statement is made by the Plaintiff, this Court, being the Court of record, can very well initiate proceedings against the erring persons and the applicant can very well establish his case during the trial. Therefore, the alleged “perjury” cannot be considered at this stage.

3. The learned counsel appearing for the applicant has relied upon the following judgments:

(i) Gokuldas Paper Products vs. Lilliput

Kidswear Ltd., and another reported in 2023 SCC



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(ii) James Kunjwal vs. State of Uttarakhand

and another reported in 2024 SCC OnLine SC 1943.

(iii) King Victor Ch. Marak vs. State of

Megalaya reported in 2023 SCC OnLine Megh 287.

On a careful perusal of those judgments, they will not be applicable to the present facts of the case as the stage of the present case is at pleadings stage and the allegations made in the Plaint are to be tested through trial.

9. In view of the above discussions, this Court is of the opinion that the prayer sought for in this application cannot be considered at this stage and the applicant is at liberty to work out his remedy at the appropriate stage in accordance with law.

P.DHANABAL.,J

mjs

10. Accordingly, this application is **disposed of**.



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