



C.R.P.(PD)(MD) No.2158 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	06.01.2025
Pronounced on	23.01.2025

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No. 2158 of 2023 and
CMP(MD).No.10831 of 2023

S.Periyasamy

... Revision petitioner / Defendant

Vs.

N.Periyasamy

.. Respondent / Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 15.02.2023 in I.A.No.1 of 2021 in O.S.No.249 of 2020 on the file of the Principal District Munsif, Karur.

For Petitioner : Mr. V. Nagarajan

For Respondent : Mr. J. Senthil Kumaraiah

ORDER

This revision is preferred against the fair and decreetal order, dated 15.02.2023 made in I.A.No.1 of 2021 in O.S.No.249 of 2020 on the file of



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the Principal District Munsif Court, Karur.

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2. The respondent as plaintiff filed the above suit in O.S.No.249 of 2020 on the file of the Principal District Munsif Court, Karur claiming a sum of Rs.1,00,000/- towards damages for malicious prosecution. In the plaint it is averred that revision petitioner / defendant has given a false complaint against him on 02.04.2014 and on the basis of the said complaint Velliyanai Police Station, registered a case in Crime No.59 of 2014 for the offences under Sections 294(b) and 506(ii) IPC and the charge sheet was filed before the Judicial Magistrate Court No.II, Karur and the case was taken on file in C.C.No.110 of 2014. Thereafter, the learned Judicial Magistrate No.II, Karur acquitted the plaintiff by the Judgment, dated 13.12.2019 holding that the prosecution failed to prove the case beyond the reasonable doubt. The plaintiff has not committed any offence as alleged in the said complaint. Due to the act of the defendant herein, the reputation of the plaintiff's family was affected and the plaintiff was attending the Court for several hearings for the said false complaint. Since the plaintiff was facing great hardship and his reputation in the village was tarnished he was constrained to file respective suit for damages. Pending suit, the revision petitioner /



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defendant took out an application in I.A.No.1 of 2021 to reject the plaint by stating that the plaintiff was acquitted from the criminal case by the learned Judicial Magistrate No.II, Karur on the ground that the prosecution failed to prove the case beyond the reasonable doubt. Only on the ground of Honourable acquittal, damages can be claimed for malicious prosecution. Therefore, the present plaint is liable to be rejected. However, the trial Court dismissed the said application stating that only at the time of trial the Court can see whether there is any cause of action to file the suit. Aggrieved by the same, the present revision is preferred.

3. The learned counsel appearing for the revision petitioner / defendant would submit that the cause of action for any suit for damages on account of malicious prosecution will arise only when the accused was acquitted on the ground of honourable acquittal. Mere acquittal in a criminal case would not automatically amount to malicious prosecution. In the present case, the plaintiff was acquitted by the learned Judicial Magistrate No.II, Karur stating that the prosecution failed to prove the case beyond reasonable doubt which do not amount to Hon'ble acquittal. The trial Court without considering the above aspect erroneously



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dismissed the said application which calls for interference by this Court.

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To support his contention, he has relied on the following Judgments:

- i) 2017 (4) CTC 56 (Kirthana V. Vinaya Krishnan)
- ii) 2023 (3) LW. 911 (V. Yesudos V. C.Manikandan and others)

4. On the other hand the learned counsel appearing for the respondent / plaintiff would submit that the plaintiff filing a suit for malicious prosecution and seeking damages will have to satisfy the following;

- a) prosecution by the defendant
- b) absence of reasonable and probable cause
- c) Defendant acted maliciously
- d) termination of criminal proceedings in favour of the plaintiff
- e) plaintiff suffered damages as a result of the criminal prosecution.

The above ingredients are present in the case of the plaintiff and therefore, he is entitled to seek damages. His further contention is that when the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the



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charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

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

6. The suit was filed for malicious prosecution and the plaintiff had claimed in the suit damages at Rs.1,00,000/- from the defendant for the alleged malicious prosecution. According to the plaintiff, the defendant gave a false complaint against him and based on the said complaint Velliyanai Police Station registered a criminal case against the plaintiff in Crime No.59 of 2014 for the offences under Sections 294(b) and 506(ii) IPC. Based on the said complaint charge sheet was filed before the Judicial Magistrate No.II, Karur and the case was taken on file in C.C.No. 110 of 2014. Admittedly, the plaintiff was acquitted by the Judgment, dated 30.12.2019 holding that the prosecution failed to prove the case beyond the reasonable doubt. Applying the principles laid down by the Hon'ble Supreme Court in the Judgment reported in **2013(1) SCC 598** in the case of **Deputy Inspector General of Police and another Vs. S.Samuthiram**, the plaintiff was acquitted after the full consideration of



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prosecution evidence and that the prosecution miserably failed to prove the charges levelled against the accused / plaintiff, it can possibly be said that the accused was honourably acquitted. This Court do not find any infirmity or perversity in the order passed by the trial Court.

7. Accordingly, this Civil Revision Petition is dismissed confirming the order, dated 15.02.2023 in I.A.No.1 of 2021 in O.S.No.249 of 2020 on the file of the Principal District Munsif, Karur. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.01.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-Delivery Order made in
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