

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision No. 100 of 2012

Applicant: Gul Muhammad in person

Respondents: Manzoor Ahmed & Others. None present.

Dates of hearing: 10.01.2022

Date of Order: 10.01.2022

J U D G M E N T

Muhammad Junaid Ghaffar J. - Through this Civil Revision Application, the Applicant has impugned Judgment dated 11.1.2012 passed by 5th Additional District Judge, Sukkur, in Civil Appeal No.92 of 2011 whereby, while dismissing the Appeal, Judgment dated 27.9.2011 of 1st Civil Judge, Pano Aqil in F. C. Suit No.20 of 2007 has been maintained through which the Suit of the Applicant was dismissed.

2. The Applicant, an old aged person has not engaged a Counsel and is unable to assist the Court in any manner. Matter pertains to 2012; hence, is being decided on the basis of available record. Notice was ordered, but no one has appeared on behalf of Respondents.

3. It appears that an objection has been raised that this Civil Revision Application is hopelessly time barred. In response to such objection CMA No.297 of 2013 has been filed whereas, certified copy of the impugned order reflects that it was passed on 11.1.2012; copy was applied on 14.3.2012; cost was estimated on 19.3.2012 which was paid on the same date; whereas, copy was issued on 15.8.2012 and this Revision was filed on 10.9.2012 i.e. after a total of 243 days; out of which 89 days are on the part of the Applicant, whereas, the rest have been consumed by the Court. In view of such position it appears that this Revision Application is within time; hence, the objection regarding limitation stands overruled.

4. As to merits of the case, it appears that the Applicant had filed a Suit for malicious prosecution and Damages against the Respondents on the ground that he was falsely implicated in FIR No.179 of 2013, wherein he was acquitted. The learned trial Court framed a preliminary issue as to “*whether the Suit is not maintainable under the law*”, and answered the same in the affirmative by dismissing the same; which order has been upheld in appeal through the impugned order.

5. After going through the orders of the Courts below this Court is of the opinion that the said orders are correct in law and does not require any interference by this Court in its limited jurisdiction under section 115 CPC. It has been held by the Courts below that the Respondent had only acted as a witness and while appearing before the trial court seized with the FIR had narrated the facts seen by him. It is a matter of admitted fact that the Applicant had not sued the complainant of the FIR; nor the officials who had prosecuted him. An act of a witness appearing before the Court and narrating the facts, which even otherwise on examination does not appear to be such that a case for malicious prosecution be initiated, by itself without joining of necessary parties, does not give rise to a cause of action; at least to the extent of Respondent. If at all, any case of malicious prosecution was to be maintained, it ought to have been against the complainant or the officials; but certainly not against the Respondent / witness independently. If this is permitted, then no one would come forward to give evidence in such matters. Once the Applicant has chosen not to initiate any proceedings of malicious prosecution against the complainant along with officials; then his effort to do the same only against one of the witnesses is not maintainable. On this ground, this was a case of no cause of action against the respondents; hence, both the Court below have come to a correct legal conclusion that the suit was not maintainable and does not require any interference by this Court. The Revision Application being misconceived is hereby dismissed.

J U D G E