

Arvind Kalidas Wadodkar Vs. Ramdas Devidas Joshi

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Court : Mumbai

Decided On : Sep-05-1996

Reported in : 1998(1)BomCR131; 1996(2)MhLj907

Judge : L. Manoharan, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 500; [Code of Civil Procedure \(CPC\), 1908](#) - Sections 115 and 151 - Order 39, Rules 1 and 2

Appeal No. : Civil Revision Application No. 65 of 1994

Appellant : Arvind Kalidas Wadodkar

Respondent : Ramdas Devidas Joshi

Advocate for Pet/Ap. : A. Shelat, Adv.

Judgement :

ORDER

L. Manoharan, J.

1. The applicant in this revision is the defendant in Civil Suit No. 26 of 1990 which was instituted by the non-applicant for recovery of damages for defamation. In the meanwhile, the non-applicant/plaintiff also instituted a criminal prosecution under section 500 of Indian Penal Code for defamation Therefore, in the civil suit the defendant - applicant herein- filed an application under section 111 of Code of Civil

Procedure for stay of the suit till the disposal of the criminal case instituted by the plaintiff-non applicant. By the impugned order the learned 4th Joint Civil Judge, Sr Dn., Akola, dismissed the application. Aggrieved by the same, the defendant has preferred this revision.

2. The learned Counsel, Shri Shelat, on behalf of the applicant has submitted that the very conclusion reached by the learned Judge is opposed to the accepted precedent and, therefore, is liable to be reversed. The learned Counsel submitted that these two matters since rest on the same set of facts and in the civil proceedings since the applicant is to file a written statement revealing his defence and give evidence, the same would cause prejudice to the applicant who is the accused in the said criminal prosecution. The learned Counsel stressed the point that in a criminal proceeding the accused is not bound to disclose his defence whereas in the civil proceeding since he is required to file his written statement, the aforesaid protection in the criminal proceeding in effect will be taken away if the civil suit is to proceed against him. The learned Counsel made reliance on the decision in the case of *M.S. Sheriff v. State of Madras*, : [1954]1SCR1144 in support of the aforesaid submission. The Supreme Court in the said decision has held that simultaneous prosecution of criminal proceedings and civil suit will embarrass the accused, and since it is necessary with due regard to the nature of criminal proceedings that a speedy trial in the criminal proceeding is necessary, the civil suit has to be stayed till the disposal of criminal proceedings. In the decision in *Assumpcao Ribeiro v. Elaviano boa Ventura Salvador Silveira*, A.I.R. 1979 Goa 37 the Judicial Commissioner also took the same view relying on the decision of Supreme Court reported in : [1954]1SCR1144 . Applying the principles laid down by the Supreme Court in the aforesaid decision, it is clear that the civil suit from which this revision arises has to be stayed till the criminal prosecution under section 500 of Indian Penal Code launched by the non-applicant is disposed of.

3. In view of the above, the revision is allowed. The impugned order of the learned Joint Civil Judge, .Sr. Dn., Akola is set aside and the civil suit from which this revision arises, is stayed till the disposal of the aforesaid criminal prosecution. No costs

4. Application allowed.

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