

IN THE COURT OF THE II ADDITIONAL SUBORDINATE JUDGE,
COIMBATORE

PRESENT: Tmt. B.S. KALAIVANI, L.L.B.,
II ADDITIONAL SUBORDINATE JUDGE,
COIMBATORE.

MONDAY, THE 27th DAY OF JULY 2026

I.A.No.02/2025 in
OS.No.38/2025

1. B. Infanta Preethi
2. Benedict Alexander ... Petitioners / Defendants

-- Vs --

1. John Edward
2. Noel Marina
3. J. Kevin Gilbert John ... Respondents / Plaintiffs

This petition, coming on 20.07.2026 for final hearing before me in the presence of Thiru. R. Mohamed Yakoob, Thiru. S. Jameesha, Advocates for the Petitioners / Defendants and Thiru. M.S. Balajee Sridhar, Advocate for the Respondents / Plaintiffs and upon perusing the material records, and having stood over for consideration till this day, this court delivers the following:

ORDER

This petition was filed by the Petitioners / Defendants under Order 7 Rule 11 and Section 151 of CPC praying to reject the plaint in O.S.No.38/2025.

2. The Brief averments of the affidavit filed along with the petition :-

2.1. The suit is clearly barred by law, which includes from defamation, statements made in good faith to lawful authorities as the cause of action is based on proceedings under statutory protection laws, which are protected

and privileged by law. The suit is clearly abuse of process of court, attempting to convert a legitimate legal grievance into a counter-defamation claim, which is not maintainable. The plaint is vague, speculative and lacks specific averments as to how the alleged statements caused any actual damage to the reputation of the plaintiff. There is no pleading as to (a) the specific words or publication that caused defamation (b) the time, place, or audience before whom it was published (c) any actual harm or legal injury caused.

2.2. Filing a legal complaint or a domestic violence petition does not amount to defamation, and even if the allegations are incorrect (which is denied), the remedy lies in the defence in those proceedings not in a civil suit for damages. Moreover, the 2nd defendant who is 1st petitioner's father is falsely and maliciously impleaded in the suit, although he is neither the author nor a party to any of the legal complaints. There is no cause of action against him, and hence, the suit against him is liable to be rejected at the threshold. Being a your mother with a minor child, 1st petitioner is facing untold hardship and suffering. Instead of extending emotional and financial support, the 3rd plaintiff proceeded to file a divorce petition in HMOP No.1079/2024 before the Hon'ble Principal Family Judge of Coimbatore with an ulterior motive, seeking to escape liability and responsibility. But still 1st petitioner believe in the sanctity of marriage, and despite all suffering he is ready to live with the 3rd plaintiff for the sake of their minor child and her future, further she is coming from an orthodox background with strong faith in God and values. She filed a suit for restitution of conjugal rights before the same Hon'ble Principal Family Judge of Coimbatore in IDOP 703/2025. No cause of action is disclosed since, the proceedings against the plaintiffs are still pending before the Hon'ble Judicial Magistrate Court, Coimbatore for

DVA cases, suit is barred by law and no quantifiable damage pleaded.

2.3. The suit is vexatious, malicious and a counter-blast to the legal proceedings initiated by her and the suit is filed with an ulterior motive to silence and to harass him, and to create pressure to withdraw her legal complaints. Such use of the Civil court for personal vengeance is a misuse of Judicial process and must be nipped in the bud further the burden of proof shifts to the plaintiffs to prove falsity, especially when the Domestic violence case is pending or deciding against them. Hence, the petitioners prays to reject the plaint with costs.

3. The sum and substance of the counter filed by the Respondents/ Plaintiffs :-

3.1. The above petition has been filed only to prevent the trial being proceeded with and the case being contested on merits and above application to reject the plaint has been filed alleging as if there is no cause of action for maintaining the above suit for damages. A case of defamation is made out based on the allegations levelled by one person against the other persons in the instant case by the person alleging character assassination words in the complaint. In the instant case, the first petitioner herein with the support of the second petitioner has filed a frivolous police complaint containing certain imaginary incidents all with the objective of portraying this respondent in poor limelight.

3.2. The respondent has specifically pleaded in the plaint that a copy of the Police complaint filed by the first defendant to the suit was obtained by him and a reading of the complaint which is bereft of any truth showing this respondent in poor limelight as if this respondent has indulged in unnatural sexual activity has been alleged in the said complaint. It is well known to one and all that any allegations made without any truth in it is unacceptable in a complaint. But in the instant case, the first petitioner had alleged in the Police complaint as if this respondent indulged

in unnatural sexual act, which is reality did not happen. The complaint has been given to the Police which deems the self respect of the plaintiff and the Police officials saw this respondent as a person who are indulged in such unnatural sexual act and thereby showing the reputation of this respondent in poor limelight. The derogatory words showing the personal conduct of this respondent which has been mentioned in the complaint has been called out and reflected in para 10 of the plaint. This being so, the contention of the petition upon filing the petition that the place of the complaint or the place where the material was distributed or shown was not mentioned in the plaint is irrelevant since it has been filed with the police station.

3.3. A cause of action is nothing but a bundle of facts reflecting the reasoning for the filing of the case which demonstrates the right of the person to sue. In the instant case, this respondent had categorically stated that it is not a material which has been published, but it is a complaint alleging imaginary false contention mentioned which shows these respondent in poor limelight. It is the first Petitioner who refused to come and live with this respondent in the matrimonial house at Bangalore and by her act of being in their house and that the instigation of the second defendant herein, the 1st petitioner had filed the complaint to bring down the self respect and image of these respondents before the police who saw these respondents as perverted persons and thereby the image of these respondents was shattered before the Police officials which is the base for claiming damages. The truth in the contention of this respondent and the allegation made by the petitioner, its veracity can be confirmed if the petitioner and respondent are to be subjected to Narco analysis test to find out the truth of the alleged incident if all that happened, which can be proved only in trial. This being so it is misnomer to state that there is no cause of action to maintain a suit for damages and this being so the question of the suit being rejected as it does not reflect a cause of action will not stand the testimony of law and the above petition has to be rejected. Unless the above petition is dismissed this respondent will not be able to proceed the trial of the suit and substantiate their case, failing which this

respondent would be put to great loss and hardship. Hence, the petition is liable to be dismissed with costs.

4. Heard both sides. Records perused. No oral or documentary evidence was let in by both sides.

5. **Point for consideration:-**

Whether the petition under Order 7 Rule 11 of CPC praying to reject the plaint is to be allowed or not?

6. **On point:-**

6.1. According to the petitioner, the suit has been filed by the Respondents / Plaintiffs for claiming damages for a sum of Rs.5,00,000/- alleging that the lodging of Police complaint and the filing of Domestic Violence Complaint against the petitioners by the 1st petitioner's husband and in-laws are bereft of merits and the allegations made in police complaint is not genuine and the acquisition that the complaint was made for illegal gain is denied and the petitioners contend that the allegations in the plaint solely based on the fact that exercised the 1st petitioner's legal rights and do not disclose any independent cause of action constituting the tort of defamation and it is clearly barred by law which excludes from defamation and the suit is a clear abuse of process of court, attempting to convert legitimate legal grievance into a counter defamation claim and the same is not maintainable and no pleading as to specific words or publication, time, place or audience, any actual harm or legal injury caused and being an young mother the 1st petitioner is facing untold hardship and suffering and had filed the petition for restitution for conjugal rights and accordingly the proceedings does not have any cause of action and barred by law and no quantifiable damage has been pleaded in the plaint.

6.2. On the contra the respondents in the present case would vehemently resists the contention of the petitioners stating that the petition has been filed in order to

prevent the trial being proceeded and further a case of defamation is based on allegations leveled against a person and in the present case the 1st petitioner in support with the 2nd petitioner has filed frivolous police complaint with certain imaginary incidents and the statement alleged caused actual damage to the reputation of the plaintiffs but actually character assassination words ought to cause damage to the defendant and the petitioner has contended that no specific words and publication which would cause defamation has been pleaded wherein the plaintiffs / respondents herein have clearly pleaded in the plaint that a copy of the police complaint would read that the respondent has indulged in unnatural sexual activity and accordingly the reputation of the respondent was in poor limelight and further the cause of action is nothing but a bundle of facts reflecting the reasoning for filing the case which demonstrates the right of the person to sue and moreover the present petition has been filed to protract the proceedings.

6.3. From the arguments advanced both sides, this court is inclined note that the Petitioners / Defendants have filed this application for rejection of the plaint on the ground that the suit is barred by law, has no cause of action and it is an abuse of process of law. On careful perusal of material records, this court is pertinent to note that the present case has been filed by the respondents / plaintiffs in order to direct the defendants to pay damages for a sum of Rs.5,00,000/- and for other reliefs and while the case was posted for written statement, the petitioners / defendants have come forward with the present petition to reject the plaint on grounds such as the suit is barred by law, has no cause of action and is an abuse of process of law.

6.4. At this juncture, this court is inclined to note that there is no dispute in respect of the relationship of both the parties and however, according to the petitioners, the respondents could not maintain the suit in respect of defamation with regard to the matrimonial case and moreover there is no pleadings in the petition in respect of the defamation caused or the the actual damage to the reputation of the plaintiffs and there is no pleadings as to specific words of publication which caused

defamation and the time, place or audience before whom it was published and nay actual harm or legal injury caused and as such the suit is bereft of merits. On the other-hand the only contention of the respondents is that the petition has been filed to prolong the proceedings and protract the trial and further there are pleading which elicit the cause of action as to the defamation caused to the plaintiffs and moreover the cause of action is a bundle of facts which reflects the reasoning for the filing of the case and to demonstrate the right of the person to suit.

6.5. Accordingly, this court is inclined to note the petitioners would dispute the claim of the plaintiffs on the ground that the suit is barred by law, has no cause of action and it is an abuse of process of law. In this regard, this court is inclined to rely upon the following Judgments of our Hon'ble Supreme Court of India -

1. *In Sri Biswanath Banik vs Sulanga Bose* on 14 March, 2022 in *CIVIL APPEAL NO. 1848 OF 2022* where in our Hon'ble Supreme Court of India has held as follows:

“At this stage what is required to be considered is the averments in the plaint. For the aforesaid purpose, the Court has to consider and read the averments in the plaint as a whole.”

2. In *ITC Ltd Vs DRAT and ORs 1998 2 SCC 70* wherein our **Hon'ble Supreme Court of India** was held that "the power of rejection of the plaint can be exercised even after framing issues and matter is posted for evidence and has further held that it was incumbent upon the concerned court to look into the matter as to whether real cause of action has been set out or something illusory has been stated with a view to get out the Order VII Rule 11 of the Code of Civil Procedure. Learned counsel submitted that the defendant had only supplied the material facts which the plaintiffs were bound in law to disclose but they had deliberately not disclosed."

3. In *Popat and Kotecha Property Vs State Bank of India Staff Association 2005 7 SCC 510*, wherein our Hon'ble Supreme Court of India has held as follows:

" Clause (d) of Order VII Rule 7 speaks of suit, as appears from the statement in the plaint to be barred by any law. Disputed questions cannot be decided at the time of considering an application filed under Order VII Rule 11 CPC. Clause (d) of Rule 11 of Order VII applies in those cases only where the statement made by the plaintiff in the plaint, without any doubt or dispute shows that the suit is barred by any law in force."

The above citations are applicable to the facts and circumstances of the case.

6.6. In the light of the above cited Judgments of our Hon'ble Supreme Court of India, this court is inclined to note that it is enough, if the Plaint averments and the documents relied upon, discloses some cause of action and it is not necessary that such averments and documents are sufficient enough to prove the facts stated therein, for the purpose of obtaining the relief claimed in the Suit. It is pertinent to note that in the present case the petitioner / defendant herein would take a stand that the suit is barred by law based on the relationship of both the parties since it is a matrimonial case. So long as the claim, discloses some cause of action or raise some questions fit to be decided by a Judge, that is enough to proceed further with the Suit and a Plaint cannot be rejected on the ground that the correct cause of action has not been disclosed and moreover, the plea of the petitioner that the respondents without any correct pleadings have filed the present suit which is not maintainable wherein this court is inclined to note that the suit has been filed for damages on the basis of the facts that the petitioners / defendants have lodged a police complaint with false allegations and the acts of the petitioners caused harassment to them. However the matter in issue is in respect of the fact that whether the defendants have detained the reputation of the respondents / plaintiffs is a mixed question of fact and law and that ought to be elicited on the basis of full-fledged trial and accordingly, this suit could not be rejected on the threshold on the ground that the claim sought was barred by law in force and has no cause of action and it is an abuse of process of law.

6.7. From the averments and submissions made by both sides, this court is

inclined to note that unless a detailed and full-fledged trial has been conducted, the matter in issue in the suit would be elucidated and this court is of the view that the veracity of the relief or the fact that the relief sought by the plaintiff whether barred by law and it is an abuse of process of law could not be adjudicated at this stage. Hence, in the interest of justice, it would be appropriate for the parties to undergo the ordeal of trial to facilitate this court to arrive at just and fair decision.

10. DECISION:-

In the result, the petition is dismissed. No costs.

Dictated by me to the Steno-Typist, computerized by him and corrected by me in my chambers and pronounced by me in the Open Court on this the 27th day of July 2026.

II Additional Subordinate Judge,
Coimbatore.

List of Witnesses and Documents on both side : - Nil -

II Additional Subordinate Judge,
Coimbatore.

**Fair Order in
I.A.No.02/2025 In
O.S.No.38/2025
Dated : 27.07.2026
II ASJ Court, CBE.,**

**IN THE COURT OF THE II ADDITIONAL SUBORDINATE JUDGE,
COIMBATORE**

**PRESENT: Tmt. B.S. KALAIVANI, L.L.B.,
II ADDITIONAL SUBORDINATE JUDGE,
COIMBATORE.**

MONDAY, THE 27th DAY OF JULY 2026

**I.A.No.02/2025 in
OS.No.38/2025**

1. B. Infanta Preethi, W/o. J. Kevin Gilbert John, aged about 27 years,
2. Benedict Alexander, S/o. G. Antonysamy, aged about 62 years,
both are residing at No.177, Ramasamy Layout, Avarampalayam,
Coimbatore. ... Petitioners / Defendants

-- Vs --

1. John Edward, S/o. Siluvai Antony Muthu, aged about 65 years,
2. Noel Marina, W/o. John Edward, aged about 61 years,
3. J. Kevin Gilbert John, S/o. John Edward, aged about 33 years,
all are residing at 3/6, Masque Road Cross, Frazer Town,
Bangalore. ... Respondents / Plaintiffs

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This petition was filed by the Petitioners / Defendants under Order 7 Rule 11 and Section 151 of CPC praying to reject the plaint in O.S.No.38/2025.

Date of Petition: 14.08.2025

This petition, coming on 20.07.2026 for final hearing before me in the presence of Thiru. R. Mohamed Yakoob, Thiru. S. Jameesha, Advocates for the Petitioners / Defendants and Thiru. M.S. Balajee Sridhar, Advocate for the Respondents / Plaintiffs and upon perusing the material records, and having stood over for consideration till this day, this court doth order as follows;

FINAL ORDER

1. that the petition and the same is hereby dismissed;
2. that there be no Costs.

Memo of Costs

(Both side not filed)

SCHEDULE OF PROPERTY

- NIL -

Given under my hand and seal of this Court, this 27th Day of July 2026.

II Additional Subordinate Judge,
Coimbatore.

**Final Order in
I.A.No.02/2025 In
O.S.No.38/2025
Dated : 27.07.2026
II ASJ Court, CBE.,**