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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

W.P. (MD)No.12316 of 2015

N.Vignesh

... Petitioner

Vs.

The Chairman,
Bar Council of Tamil Nadu and Puduchery,
Chennai.

... Respondent

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider the petitioner's application for enrolment is proposed to held on 22.07.2015 and include the petitioner's name in the list of candidates for enrolment.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.M.Subash Babu

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Petitioner has completed Bachelor of Law degree in Government Law College, Tirunelveli in May, 2014. He had arrears in the subject of 'Human Rights', which has cleared in November, 2014.

2. Averments indicate that following an incident, which alleged to have occurred on 14.03.2012, a case in Crime No.95 of 2012, has been registered ,against the petitioner, for the offences under Sections 294(b) and 323 of IPC., on the file of Inspector of Police, Ambasamudram Police Station, Tirunelveli District. Seeking to quash the First Information Report, Crl.O.P.(MD)No.5669 of 2015, has been filed in this Court.

3. From the materials on record it could be deduced that on 25.03.2015, the said petition has been dismissed, recording the submission of the learned Government Advocate (crl.side) that charge sheet has been filed on 15.05.2012. Subsequently, Crl.O.P.(MD) No.5669 of 2015 had been listed under the caption, 'for being mentioned' and thereafter, the following order has been passed.

<https://hcservices.ecourts.gov.in/hcservices/> "The matter is taken up for being mentioned at the instance of both counsels appearing for the parties.

2. It is submitted that the facts have been



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wrongly noted in the order passed in paragraph No.2. Both the counsel submitted that compromise memo dated 23.3.2015 has been filed already signed by the counsels as well as by the parties. Based upon the said compromise memo order has been passed. However, due to inadvertence the order has been wrongly typed.

3. Heard the learned counsel for the petitioners, learned counsel for the second respondent and the learned Government Advocate (Crl.side) appearing for the State. This Court has also perused the compromise memo.

4. Considering the submissions made and after going through the relevant documents including the offences alleged against the petitioners, this Court is inclined to quash the proceedings as no useful purpose would be served by continuing the investigation. Accordingly, the FIR in Crime No. 95 of 2012 on the file of the first respondent is quashed. The compromise memo shall form part of record. This petition is ordered.

4. In the meanwhile, the petitioner has submitted an application, dated 27.03.2015, to the Bar Council of Tamil Nadu and Puducherry, Chennai, Form No.V, under Sections 24 & 25 of the Advocate Act, 1981, for enrolment. In the said application, as against Column No.12(1)(b); Is there any pending criminal proceedings against You? If so give particulars. The applicant had not given any particulars. However, the fact remains that, on 24.03.2015, a case in Crime No.95 of 2012, has been registered, on the file of the Inspector of Police, Ambasamudram Police Station, Tirunelveli District, has been quashed.

5. On the above said facts, the petitioner has sought for a Mandamus, directing the Chairman, Bar Council of Tamil Nadu and Puducherry, Chennai, for enrolment, proposed to be held on 22.07.2015.

6. Mr.M.Subash Babu, learned counsel for Bar Council of Tamil Nadu, submitted that he has no objection for an order being passed, in terms of an order made in W.P.(MD)No.5576 of 2015, dated 15.04.2015. He further submitted that liberty may be given to the Bar Council, to consider the said requirements to be satisfied under the statute.

7. Absolutely, there cannot be any grievance to the Bar Council of Tamil Nadu, to consider the application of the petitioner for enrolment. Order made in W.P.(MD)No.5576 of 2015, dated 15.04.2015, is extracted hereunder:-

"Application of the petitioner, dated 10.10.2013, submitted to the Bar Council of Tamil Nadu and Pondicherry, for enrolment of Advocate, is stated pending consideration. Therefore, the petitioner has sought for a Mandamus, directing the respondents to enrol him, as an Advocate, in the Bar Council of Tamil



Nadu and Pondicherry, in the forthcoming enrolment.

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2. Considering the limited relief, Mr.M.Subash Babu, learned counsel, is directed to take notice for the respondents and by consent of the parties, the Writ Petition is taken up for final disposal.

3. As per the supporting affidavit, a case in Crime No.112/2011, had been registered against the petitioner, for offences under Sections 147 and 427 of IPC., r/w Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, in which, the petitioner has been arrayed as second Accused. On account of the same, he has not been permitted to enrol himself, as an Advocate. The petitioner has further contended that upon trial, the learned Assistant Sessions Judge, Srivilliputhur, has acquitted him, vide Judgment, dated 13.02.2015 in S.C.No.191 of 2011. Consequent to the same, the petitioner has prayed for issuance of a Mandamus, as stated supra. Reliance has also been placed in Section 24 and 24-A of the Advocates Act, which disqualifies only a person convicted for an offence, for a period of two years, as stated in the above Section.

4.Mr.M.Subash Babu, learned counsel appearing for the respondents submitted that in similar circumstances, this Court in W.P.(MD)No.33807 of 2014, dated 19.12.2014, has directed enrolment. The said order is perused, and his submission is also placed on record.

5. Perusal of the letter in C.No.S1/72146/2003, dated 25.01.2014 of the Superintendent of Police, Tirunelveli District, Tirunelveli, addressed to the Secretary, Bar Council of Tamil Nadu, High Court Campus, Chennai, shows that the petitioner's name has been mentioned as D.Muthukumar @ Dhanush M.Kumar. In the Judgment made in S.C.No.191 of 2011, Dhanush Kumar has been arrayed as A2. Now that he has been acquitted, he is entitled for enrolment. In the light of the decision made in W.P.(MD)No.33807 of 2014, dated 19.12.2014 and having regard to the fact that the petitioner has been acquitted in S.C.No.191 of 2011, dated 13.02.2015, we are of the view that he is entitled for the relief sought for.

6. Accordingly, a Mandamus is issued, directing the respondents to enrol the petitioner, as an Advocate, in the Bar Council of Tamil Nadu and Pondicherry, in the forthcoming enrolment, subject to satisfying other requirements, under the Act and Rules made thereunder. No costs. "



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8. The Writ Petition is disposed of in terms of the orders stated supra. No costs.

Sd/-

Assistant Registrar (Per.Admn.)

/True Copy/

Sub Assistant Registrar

To

The Chairman,
Bar Council of Tamil Nadu and Puduchery,
Chennai.

+1cc to Mr.H.Arumugam, Advocat sr.No.39051

akm/16.07.15 /4p-3c/

W.P. (MD) No.12316 of 2015
16.07.2015