



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.7558 of 2017
and W.M.P.(MD) Nos.5898 and 5899 of 2017

T.Banumathy

... Petitioner

-vs-

1.The Chairman,
Bar Council of Tamil Nadu,
High Court Campus,
Chennai.

2.The President,
The Trichirappalli Bar Association,
District Court Campus,
Trichirappalli.

3.Srinivasan
4.R.Sasikumar
5.J.Mathiyalagan
6.R.Sukumar

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the original records pertaining to the impugned resolutions dated 01.03.2017 and 07.03.2017 passed by the Trichirappalli Bar Association and quash the same.

For Petitioner	:	Mrs.T.Banumathy - Party-in-Person
For 1st Respondent	:	Mrs.J.Anandhavalli
For 2nd Respondent	:	Mrs.J.Maria Roseline
For Respondents	:	No appearance

3 to 6

O R D E R**(Order of the Court by M.M.SUNDRESH, J.,)**

A resolution was passed on 01.03.2017 not to file any intervening petition to a bail application filed by one of the member who has been charged under Section 376 I.P.C. However, contrary to the resolution, the petitioner has filed an application opposing the bail application. It was condemned by way of another



resolution. The hearing in the bail application took place on 06.03.2017. Thereafter, one more resolution was passed on 07.03.2017 to remove the petitioner from the association on the premise that she has challenged the Office bearers of the association and ill-treated the lawyers who appeared for the lawyer, who filed the bail application. Incidentally a notice was published stating that the removed member shall not be allowed to use the premises of the association. Challenging the same, the present writ petition has been filed.

2.The petitioner would submit that for appearing for a victim a resolution has been passed. The subsequent alleged occurrence is only an off shoot of the earlier one. There is no material to hold that the petitioner was at fault. In fact even in the first resolution, a wrong decision has been taken and resolution No.4 is to be read along with resolution No.5. Therefore, resolution Nos.2 and 3 of resolution dated 07.03.2017 is also consequence to the earlier one passed. Therefore, the writ petition will have to be allowed by setting aside the impugned resolutions dated 01.03.2017 and 07.03.2017.

3.The learned counsel for the second respondent would submit that the writ petition as filed is not maintainable in law. The action was not taken for appearing for the victim but for the conduct of the petitioner. The conduct of the petitioner is reprehensible. Therefore, no interference is required.

4.We have perused the entire resolutions under challenge.

5.Resolution No.4 dated 01.03.2017 is very specific by asking all the members not to file any intervening petition by any one of the member. Resolution No.5 is also specific with reference to the petitioner herein, who has taken a decision to appear for the victim. From the above, we are of the view that both the resolutions cannot be sustained in the eye of law. There cannot be a resolution preventing a lawyer from appearing for a litigant, be that a victim or an accused. It is strange that a resolution has been passed preventing a lawyer from appearing for a victim to object the bail application, only on the premise that the accused is a lawyer. We are of the view that the resolution itself would amount to misconduct. However, we do not propose to take any action on this. Suffice to state, had there been no resolution on 01.03.2017, there would not be any occasion for passing the resolution dated 07.03.2017, followed by publishing a notice dated 07.03.2017.

6.An advocacy is not only a profession but also a calling. A lawyer is an officer of the Court. He is an important cog in the dispensation of justice. Therefore, the conduct of the lawyer and his performance assumes a public element. In that view of the matter, we are of the view that the facts involved would certainly constitute a public duty and therefore, the writ petition is maintainable. An act involving prevention of a lawyer to perform his

duty would certainly be amenable to the jurisdiction of this Court.

7.The contention of the 2nd respondent with respect of the other issue cannot be countenanced for the reason that there is no material per se to come to the conclusion that the petitioner warrants a debarment from the association. After all, the association is functioning within the Court premises, which is also a public building. Therefore, looking from any perspective, impugned resolutions, so far it relates to the petitioner is concerned, cannot be sustained in the eye of law.

8.Accordingly, the Writ Petition is allowed and the impugned resolutions dated 01.03.2017 and 07.03.2017 are set aside. Consequently, a direction is issued to the 2nd respondent to permit the petitioner to act as a member of the respondent bar association. However, we make it clear that this order will not stand in the way of the respondent to take appropriate action in the event of any alleged misconduct in future by the petitioner.

9. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To:

1.The Chairman,
Bar Council of Tamil Nadu,
High Court Campus,
Chennai.

2.The President,
The Trichirappalli Bar Association,
District Court Campus,
Trichirappalli.

+ 1 CC TO M/s.J.MARIA ROSELINE, ADVOCATE IN SR No. 69487
+ 1 CC TO M/s.J.ANANDHAVALLI, ADVOCATE IN SR No. 69543

SJ

TE/SKN-RSK/SAR-II : 28/08/2017 : 3P/5C

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