

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[THROUGH VIDEO CONFERENCING]

DATED : 06.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. No.6105 of 2019
and
W.M.P. No.6929 of 2019

S.M.A.Jinnah Petitioner
Vs.

1.The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus,
Chennai - 600 104.

2.The Registrar,
Disciplinary Committee,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus,
Chennai - 600 104.

3.M.Hasanammal Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records pertaining to the impugned order passed by the Respondent No.2 in D.C.C.No.288 of 2018 dated 27.08.2018 and quash the same.

For Petitioner : Mr.S.M.A.Jinnah
Party-in-person

For Respondents 1 & 2 : Mr.J.Pothi Raj

O R D E R

(Order of the Court was made by N.KIRUBAKARAN,J.)

The petitioner, who is a practising Advocate of this Court, has come before this Court, challenging the proceedings of the Bar Council of Tamil Nadu and Puducherry, by which, the

complaint of the third respondent has been referred to the Disciplinary Committee under Section 42 of the Advocates Act.

2. It is the case of the petitioner that the third respondent was his client through one organization viz. Popular Front of India. Her husband was illegally taken by the police under the guise of enquiry and he was detained in illegal custody and tortured by 12 police personnel and consequently, he is said to have been murdered. Subsequently, CrI.O.P(MD)No.7487 of 2008 has been filed to transfer the case to C.B.I. and the same has also been conducted by the petitioner. The petitioner appeared for the third respondent and got a relief of transfer of the case to C.B.C.I.D., even though the prayer was for investigation by C.B.I. The C.B.C.I.D., conducted the investigation and filed a charge sheet and the same was taken on file in S.C.No.195 of 2011 on the file of the Additional Sessions Court, Tirunelveli and the same is pending. In the meanwhile, CrI.O.P(MD)No.3676 of 2015 has been filed by one of the accused viz., Easwaran, the then Deputy Superintendent of Police, Nagercoil Town and that case was also successfully contested by the petitioner and the petition was dismissed. Thereafter, a discharge petition was filed and the same was dismissed, against which, the accused came before this Court by filing a revision. The revision was taken on file in CrI.R.C. (MD) No.400 of 2015 and the same was adjourned after vacation. According to the petitioner, without his knowledge, the matter was moved before the vacation Court. The petitioner, knowing the same, gave change of Vakalath. During the pendency of the revision, the third respondent wrote letters to the Hon'ble Judges, which compelled to initiate suo motu contempt against the third respondent. At that point of time, the third respondent filed a complaint before the Bar Council of Tamilnadu and Puduchery, contending that the petitioner has nexus with the Government Advocate and he demanded Rs.50,00,000/-.

3. The case of the third respondent is that the petitioner pressurised her to compromise the matter with the accused. In the said complaint, only notice has been ordered. The petitioner appeared and filed his counter stating that in many cases, the petitioner appeared before various Courts on behalf of the third respondent. Since the third respondent tried to bring the case during vacation Court, he has given change of vakalath and he has not pressurised the third respondent to compromise the matter with the accused. After going through the complaint as well as counter, the Bar Council is of the opinion that the matter wants enquiry by the Committee. The said proceedings is challenged before this Court.

4. Heard Mr.S.M.A.Jinnah, party-in-person and Mr.J.Pothi Raj, learned counsel for respondents 1 and 2.

5. The relationship between the third respondent and the petitioner as client and Advocate is not denied. However, during the pendency of the revision only, there was a dispute between the petitioner and the third respondent. It is evident from the order passed by the Bar Council, certain complaint has been made against the petitioner stating that the petitioner fabricated the signatures of the third respondent and she denied those signatures. To disprove the signatures in question, various documents have been produced by the learned Counsel for the third respondent, who appeared before the Bar Council of Tamil Nadu and Puducherry. These are allegations, which have to be gone into in the disciplinary proceedings, which was rightly done by the Bar Council of Tamil Nadu and Puducherry.

6. The petitioner would submit that the complaint has been given only after contempt notice was ordered by this Court, pursuant to the letter written by the third respondent to the Hon'ble Judges. The petitioner would also submit that it is only at the instance of Popular Front of India, the complaint has been given in view of the misunderstanding between him and the Popular Front of India. However, what is relevant is the dispute between his ex-client and the petitioner. Therefore, this Court is unable to appreciate any arguments based on facts.

7. A complaint has been made by the third respondent against the petitioner. Certain materials have been placed before the Committee. The same has been denied by the petitioner. Therefore, interest of justice requires the petitioner to participate in the enquiry and prove that nothing has been done by him against the third respondent. As rightly pointed out by the petitioner, the revision has been dismissed in favour of the third respondent and he can produce it before the Disciplinary Committee and convince the Disciplinary Committee.

8. In view of the above, the Writ Petition is dismissed. However, it is made clear that the Disciplinary Committee shall give opportunity to the petitioner to contest the matter and pass appropriate orders on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

sj

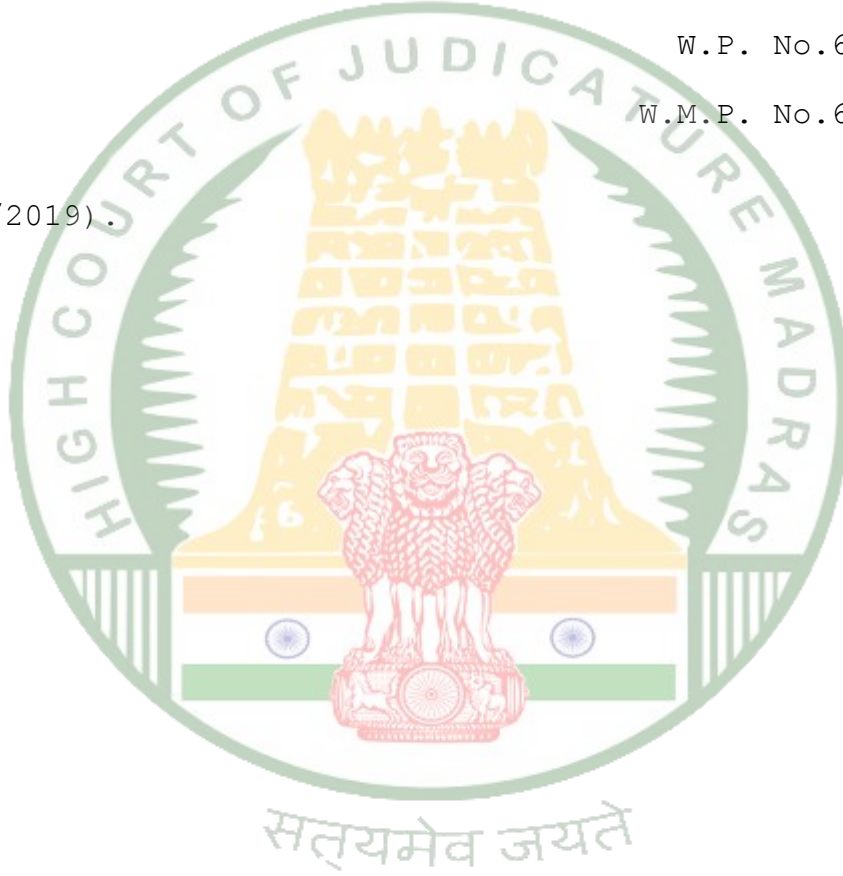
To

1.The Secretary,
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2.The Registrar,
Disciplinary Committee,
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W.P. No.6105 of 2019
and
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SV(CO)
SSM(10/04/2019).



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