

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.21610 of 2022

S.Manojkumar

... Petitioner

-Vs-

The Bar Council of Tamil Nadu & Puducherry,

Rep. its Secretary,

High Court Campus, Chennai-600 104.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to enroll the petitioner as Advocate on the rolls of Bar Council of Tamil Nadu and Puducherry based on the petitioner's enrolment application in PR 1215107, dated 11.09.2021 within the time as stipulated by this Court.

For Petitioner : Mr.P.Gunasekaran

For Respondent : Mr.K.R.Laxman

Standing Counsel

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The prayer made in the Writ Petition is to issue a Writ of Mandamus, directing the respondent to enroll the petitioner as an advocate in the Bar Council of Tamil Nadu and Puducherry within a time frame.

2. The brief facts of the case as averred in the Writ Petition would run thus:

According to the petitioner, after completing his B.Com. degree in the year 2003, he joined the 3 year LLB regular course in Veeravalli College of Law Prakash Nagar, Rajamahendravaram, Andra Pradesh, during the year 2014 and he completed the said LLB Course in December 2018. While so, due to matrimonial dispute between his elder brother and his wife, namely Mythili, a complaint was lodged by the said Mythili before All Women Police Station,

Madurai and the same was registered as Crime No.65 of 2020 for the offence punishable under Section 498 (A) IPC against all the family members, wherein, the petitioner was arrayed as 5th accused. The petitioner submitted an application to the respondent for enrollment on 11.09.2021, along with all the requisite documents. In the said application, he has disclosed the pendency of the above said criminal case. However, he was not permitted to enroll himself as an Advocate, citing the pendency of the criminal case. Hence this Writ Petition.

3.Mr.P.Gunasekaran, learned counsel appearing for the petitioner would contend that mere registration of the First Information Report against the petitioner should not be put against him to enroll himself as an Advocate. Further, the criminal proceedings are at nascent stage and the trial would take considerable time and hence, notwithstanding the pendency of the criminal proceedings, the petitioner may be permitted to enroll himself as an Advocate by the respondent. In support of his contention, the learned counsel placed reliance on the order dated 06.10.2015 passed by this Court in CrI.OP.(MD)No.14573 of 2014 [*S.M. Anantha Murugan Vs. Chairman, Bar Council of India, New*

Delhi and others [CDJ 2015 MHC 7352]], wherein this Court has *inter alia* issued a direction to the Bar Council of India, to direct the State Bar Councils not to enroll any law graduates with pending criminal cases except bailable cases attracting punishment upto three years and compoundable offences involving matrimonial, family and civil disputes, till the changes are brought in the Advocates Act and Bar Council of India Rules.

4.Following the above decision, a Division Bench of this Court in W.P.(MD)Nos.10186 and 12315 of 2022 dated 26.08.2022 ***[T.Harinath and R.Rathi Vs. The Bar Council of Tamil Nadu & Puducherry, represented by its Secretary, High Court Campus, Chennai-600 104]*** has passed an order for enrollment of the petitioners therein as Advocates. Thus, according to the learned counsel, since the criminal case pending against the petitioner is arising out of matrimonial dispute and the offence involved is compoundable and bailable in nature, the application of the petitioner, seeking enrollment as an Advocate, may be directed to be considered by the respondent in the light of the said order of this Court.

5.Per contra, Mr.K.R.Laxman, learned Standing Counsel for the respondent submitted that even though the petitioner has disclosed the pendency of the criminal proceedings in his application submitted for enrollment, he cannot, as a matter of right, seek to enroll himself as an Advocate. The learned counsel produced a list of applicants numbering 135, who are seeking for enrollment as Advocate, along with the details of their respective criminal cases and submitted that if the prayer of the petitioner is allowed, it will be cited as a precedent, in which event, the respondent will be put to grave prejudice.

6.Adding further, the learned counsel submitted that there is nothing wrong on the part of the respondent in anticipating a candidate, who enters into the legal profession, to possess good qualities, such as, integrity, honesty, rectitude and commitment towards the society. Keeping in mind the same, the respondent, upon receipt of the applications for enrollment, would verify the antecedents of the candidates thoroughly. If persons with criminal background or facing criminal cases are permitted to enroll themselves as Advocates, it would be a mockery of the justice delivery system and it would put an end to the rule

of law. Inviting the attention of this Court to Section 24-A of the Advocates Act, the learned counsel submitted that the persons against whom criminal cases are pending, cannot be permitted to be enrolled as Advocates. Thus, according to the learned counsel, the petitioner has to await for the outcome of the criminal proceedings initiated against him and therefore, he is not entitled for any relief in this Writ Petition.

7.We have heard the learned counsel for both sides and perused the materials placed on record.

8.It is not in dispute that the petitioner is facing criminal prosecution and he has disclosed the same in his application for enrollment as Advocate, before the respondent. It is the specific case of the petitioner that the criminal case was falsely registered against him and he has nothing to do with the alleged offence. Furthermore, the offence is compoundable and bailable in nature and hence, his application for enrollment as Advocate may be directed to be considered by the respondent.

9.Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel on either side, this Court, without expressing any opinion on the merits of the case, directs the respondent to dispose the application of the petitioner, seeking enrolment as Advocate, on merits and in accordance with law, after affording due opportunity to the petitioner to place all the connected materials, within a period of eight (8) weeks from the date of receipt of a copy of this order.

10.With the aforesaid direction, this Writ Petition stands disposed of.
No costs.

[R.M.D., J.] & [J.S.N.P., J.]

19.09.2022

Index : Yes / No

Internet : Yes / No

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W.P.(MD) No.21610 of 2022

R.MAHADEVAN, J.

AND

J.SATHYA NARAYANA PRASAD, J.

Myr

To

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

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