



WEB COPY



WP No. 23705 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 23705 of 2023
and
WMP No. 23221 of 2023

Mrs. Roja

.. Petitioner

Versus

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

2. Disciplinary Committee No.IV,
The Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai - 600 104.
(D.C.C.No.226 of 2022)

3. Dr.Ramadas Ramkumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Declaration, declaring the Prohibitory passed by the first respondent in his proceeding in ROC No.2411/2022 dated 06.12.2022 and Disciplinary proceeding pending before the second respondent in DCC No.226/2022 as illegal and as unconstitutional and thereby declare as Null and Void.

For Petitioner : Mr. R.Y. George Williams

For R1 & R2 : Mr. S. Ilamvaludhi

For R3 : Mr. R. Prabakar



WP No. 23705 of 2023

ORDER

(Order of the Court was made by **R. MAHADEVAN. J.,**)

WEB COPY

The prayer made in this writ petition is to issue a writ of declaration, declaring the Prohibitory Order passed by the first respondent in ROC No.2411/2022 dated 06.12.2022 and the disciplinary proceedings in DCC No.226/2022 pending on the file of the second respondent as null and void as the same being illegal and unconstitutional.

2.The facts and circumstances leading to the filing of this writ petition as projected by the petitioner, would run thus:

2.1. The petitioner is a member of the Bar Council of Tamil Nadu & Puducherry. The third respondent, who is the husband of the petitioner, made a complaint dated 25.11.2022 before the first respondent against the petitioner and one Arun Pandian, alleging that through website, the petitioner made an advertisement that she is the member of Bar Council of India and their law firm by name, 'AR Legal Junction' at Tamil Nadu is having practice in Family, Child Counseling for the past 12 years and experience in the field of Law as consultant and practitioners. According to the third respondent / complainant, the petitioner and the said Arun Pandian enrolled as Advocates only on 21.12.2018 and 01.02.2020 respectively, however, they falsely and wilfully advertised that they are having practice for the past 12 years and thereby cheated the general public. It is further alleged in the complaint that the respondents in the complaint, involved in heinous offence, thereby causing disrespect to the legal fraternity; and that, in



WP No. 23705 of 2023

particular, the petitioner misrepresented that she is the Member of Bar Council of India and thus, they committed professional misconduct under section 35 of the Advocates Act, 1961. It is also stated in the complaint that in connection with the alleged act of abusing the minor son of the petitioner and the complainant, a case in Crime No.33 of 2022 on the file of All Women Police Station, Tambaram, was registered against the petitioner and the said Arun Pandian, for the offences punishable under sections 8 r/w 7, 12 r/w 11(1) and 17 r/w 16 of the POCSO Act and Section 23 of Juvenile Justice Act, 2000.

2.2. The complaint lodged by the third respondent was taken on file by the first respondent and was registered as Complaint No.538 of 2022, dated 05.12.2022. Subsequently, the first respondent passed a prohibitory order dated 06.12.2022 thereby prohibiting the petitioner from practicing as an Advocate till the disposal of the disciplinary proceedings. Upon receipt of the copy of the complaint, the petitioner submitted her explanation on 28.12.2022. Being dissatisfied with the same, the disciplinary proceedings in DCC No.226 of 2022 came to be initiated, charges were framed, and notice of hearing on 07.01.2023 was also sent to the petitioner. Thereafter, the petitioner filed her counter to the charges framed against her and the case is now, pending before the second respondent.

2.3. In the given circumstances, the petitioner is before this court with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the complaint given by the third respondent against the petitioner is false and



WP No. 23705 of 2023

motivated. Elaborating further, the learned counsel submitted that there are matrimonial disputes pending between the petitioner and the third respondent and in order to wreck vengeance, the instant complaint has been given to the first respondent. Drawing the attention of this court to the proceedings initiated by the petitioner against the third respondent under the Protection of Women from Domestic Violence Act in D.V.C.No.122 of 2020 and the residential order dated 15.07.2022 passed in Crl.M.P. No. 765 of 2021 in D.V.C. No. 122 of 2020, the learned counsel submitted that the order dated 15.07.2022 has not been complied with by the third respondent, thereby preventing the petitioner from living under one roof. The appeal filed by the third respondent in Crl.A. No. 172 of 2022 also came to be dismissed, by directing him to comply with the order dated 15.07.2022. As a counter-blast, the third respondent filed OP No. 795 of 2021 for dissolution of the marriage on the ground of adultery, which was dismissed for default on 12.09.2022. In the meanwhile, the third respondent filed a criminal case against the petitioner and another, which was registered as Crime No. 33 of 2022 on the file of All Women Police Station, Tambaram. Thus, according to the learned counsel, the criminal complaint and the complaint before the first respondent by the third respondent are only to intimidate the petitioner. It is also specifically pointed out that on receipt of the notice from the first respondent, the petitioner has deleted the offending words describing her as a "member of Bar Council of India" from her website; and that, in view of the prohibitory order passed by the first respondent, the livelihood of the petitioner is seriously affected. Stating so, the learned counsel prayed for appropriate orders in this writ petition.



WP No. 23705 of 2023

4. On the contrary, the learned Standing Counsel appearing for the respondents 1 and 2 submitted that the complaint dated 25.11.2022 filed by the third respondent was placed before the General Council meeting held on 01.12.2022 and based on the resolution passed, it was registered as Complaint No.538 of 2022 and consequently, prohibitory order dated 06.12.2022 came to be passed against the petitioner herein, for the alleged professional misconduct committed by her. It is further submitted that after receipt of the response from the respondents in the complaint and being dissatisfied with the same, the first respondent initiated the disciplinary proceedings against them and the case in DCC No.226 of 2022 is pending before the second respondent for enquiry and disposal. The learned counsel also submitted that considering the nature of the allegations levelled against the petitioner and Arun Pandian, before the Bar Council and the police authorities, the first respondent, in order to maintain dignity and decorum and uphold professional etiquette of the legal profession, has passed the prohibitory order dated 06.12.2022, thereby prohibiting the petitioner from practising as an Advocate till the disposal of the disciplinary case, and that, an appeal remedy is available under the provisions of the Advocates Act, 1961. Therefore, the writ petition filed by the petitioner is not maintainable and is liable to be dismissed.

5. The learned counsel appearing for the third respondent reiterated the averments made in the counter affidavit filed by the third respondent and submitted that based on the complaint given by the minor son / victim, the criminal case was registered against the petitioner and her alleged paramour for having committed



WP No. 23705 of 2023

serious offence, including those punishable under the POCSO Act and hence, the averments made in the affidavit filed in support of this writ petition, are utterly false and misleading. Adding further, the learned counsel submitted that at present, the minor son is under the care and protection of the third respondent. Regarding the complaint given before the first respondent, it is submitted by the learned counsel that the petitioner had committed professional misconduct by falsely advertising in the website that she is a member of the All India Bar Council and their firm is providing professional services for several years. Therefore, the third respondent filed the complaint, based on which the first respondent passed the prohibitory order dated 06.12.2022, besides initiating disciplinary proceedings against the petitioner. It is also submitted that *suo motu* action has been initiated against the petitioner and another, by the Karnataka Bar Association and the same is pending. Therefore, the learned counsel prayed for dismissal of this writ petition.

6. Heard all the parties and also perused the records.

7. Admittedly, the parties to the writ proceedings are husband and wife in relationship and they have a minor son, out of wedlock. The petitioner is a member of the first respondent Bar Council. The third respondent made the complaint dated 25.11.2022 against the petitioner and Arun Pandian, before the first respondent, raising various allegations including the professional misconduct under section 35 of the Advocates Act, 1961.



WP No. 23705 of 2023

8. According to the third respondent, the petitioner projected herself as a member of the Bar Council of India and that, their law firm viz. AR Legal Junction was having experience in the field of law for the past 12 years, whereas she had enrolled as an Advocate only in the year 2018. That apart, criminal case was also registered against the petitioner and the said Arun Pandian, in connection with the abuse of the minor son of the petitioner and the third respondent. On the other hand, it is the stand of the petitioner that due to ongoing matrimonial disputes, the third respondent made such false complaints against her. Further, in paragraph 6 of the counter dated 21.01.2023 filed by the petitioner before the first respondent, it was specifically stated that she had not advertised that she is the member of Bar Council of India and she had mentioned so only in her own profile, but she had removed the same from her website immediately, upon receipt of the complaint. Irrespective of the contentions raised on both sides, this court is of the opinion that the truthfulness or otherwise of the same, can be ascertained only after full fledged enquiry, based on the materials placed by the parties.

9. However, the fact remains that on receipt of the said complaint, the first respondent, based on the resolution passed by the General Council, has registered the complaint on 05.12.2022, passed the prohibitory order on 06.12.2022 and initiated the disciplinary proceedings in DCC No.226/2022 against the petitioner, in order to maintain the dignity and decorum and to uphold the professional etiquette of the legal profession and at present, the case is pending before the second respondent for enquiry and disposal. Taking note of the seriousness of the allegations raised against the petitioner, such actions taken by the first respondent



WP No. 23705 of 2023

cannot be found fault with. In view of the same, the second respondent shall conduct enquiry and dispose of the disciplinary proceedings, as per law. However, it is needless to state that the parties are at liberty to raise all the contentions and produce the necessary material evidence available with them, before the second respondent at the time of enquiry.

10. At this juncture, the learned counsel for the petitioner submitted that the petitioner has given a representation to the respondent authorities for revocation / cancellation of the prohibitory order dated 06.12.2022 passed against her, pending disposal of the disciplinary proceedings, and hence, the same may be directed to be considered by the respondent authorities, within a time frame to be stipulated by this court, for which, the learned counsel appearing for the respondents 1 and 2 has no serious objection.

11. In view of the above, it is for the respondent authorities to consider the representation submitted by the petitioner and pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

12. With the aforesaid observations and directions, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
16.11.2023

r n s

Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No.

<https://www.mhc.tn.gov.in/judis>



WP No. 23705 of 2023

WEB COPY

To

1. The Secretary,
The Bar Council of Tamil Nadu and Puducherry,
High Court Campus,
Chennai - 600 104.
2. Disciplinary Committee No.IV,
The Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai - 600 104.
(D.C.C.No.226 of 2022)



WEB COPY



WP No. 23705 of 2023

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

r n s

Writ Petition No. 23705 of 2023
and
WMP No. 23221 of 2023

-

16.11.2023