



C.M.A(MD)No.898 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 01.11.2022

PRONOUNCED ON:23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.898 of 2022

K.Seetha : Appellant/Petitioner

Vs.

R.Jim : Respondent / Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013), against the order dated 28.07.2022, passed in Enquiry No.01 of 2018, on the file of the Gender Sensitization and Internal Complaints Committee (Chairman/District Judge, Permanent Lok Adalat), Tirunelveli.

For Appellant : Mr.I.Robert Chandrakumar

For Respondent :Mr.R.Jim
Party-in-Person



C.M.A(MD)No.898 of 2022

JUDGMENT

WEB COPY

The Civil Miscellaneous Appeal is directed against the order passed in Enquiry No.01 of 2018, dated 28.07.2022, on the file of the Gender Sensitization Internal Complaints committee, constituted under the Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal Act, 2013) r/w Gender Sensitization and Sexual Harassment of Women at the Subordinate Courts in the State of Tamil Nadu / the Union Territory of Puducherry (Prevention, Prohibition and Redressal) Regulations, 2013.

2. Admittedly the appellant/petitioner and the respondent/respondent are the practicing Advocates attached to the Tirunelveli Bar Association. The appellant has given a complaint alleging that the respondent has sent a voice message to the Tirunelveli District Lawyers Whats app groups and some other groups containing insulting, humiliating, threatening messages, with an intention to threaten and humiliate the complainant and the same was taken on file in Complaint No.1. The respondent has filed his counter statement denying the complainant's allegations. The Committee has then constituted a



C.M.A(MD)No.898 of 2022

WEB COPY

Internal Sub-Committee with four members including the Chairman of the Committee, to conduct enquiry and to submit a report. In pursuance of the same, the Sub-Committee has conducted enquiry and during enquiry, the complainant has examined herself as P.W.1 and Advocate Velvizhi as P.W.2 and exhibited five documents. The respondent has examined himself as R.W.1 and adduced no documentary evidence. After completing the enquiry, the Sub-Committee has submitted a report to the GSIC Committee and the said Committee, after discussion, has passed the impugned order, accepting the report submitted by the Sub-Committee that the charges levelled against the respondent were proved and also decided to award a lenient punishment and thereby admonishing the respondent and further directed not to post any message in whatsapp or any other social media implicating the complainant in any manner hereinafter. Aggrieved by the lesser punishment, the complainant has come forward with the present Civil Miscellaneous Appeal.

3. The learned Counsel for the appellant would submit that GISC Committee has erroneously passed the impugned order even after finding that the allegations levelled against the respondent stand proved and the respondent is found guilty of sexual harassment against the appellant



C.M.A(MD)No.898 of 2022

under Section 2(k)(xi), (xii)&(xiii) of the said Regulations, that the said Committee has erroneously passed the order that the respondent is a practicing Advocate and legal profession is said to be the only source of income to the respondent, when the respondent did not plead anything with respect to the same, that the said Committee ought to have punished the respondent under Section 11(2) of the said Regulations, that the Committee failed to consider that the respondent was a History Sheeter and F.I.R., was registered against him during the pendency of the enquiry and that therefore, the impugned order dated 28.07.2022 passed in Enquiry No.01 of 2018, on the file of GSIC Committee is liable to be set aside.

4. The point for consideration is that as to whether the GSIC Committee has erred in taking a lenient view and awarding lesser punishment, after holding that the respondent is found guilty under Section 2(k)(xi), (xii)&(xiii) of the Gender Sensitization and Sexual Harassment of Women at the Subordinate Courts in the State of Tamil Nadu / the Union Territory of Puducherry (Prevention, Prohibition and Redressal) Regulations, 2013.



C.M.A(MD)No.898 of 2022

WEB COPY

5. As already pointed out, both the complainant and the respondent are practicing Advocates attached to the Tirunelveli Bar Association. The case of the complainant is that on 07.03.2018 at about 21.35 hours, the respondent had sent whatsapp voice message to many groups including the Tirunelveli District Lawyers Whatsapp groups with an ulterior motive of insulting, humiliating and harassing the complainant by making defamatory remarks and the same was with an intention to cause annoyance, inconvenience, insult, enmity, hatred or ill will and to isolate the complainant from her battle for social justice.

6. The respondent has mainly raised three fold defence, that the complaint and alleged whats app voice message does not disclose any sexual harassment as defined in the Act, that no incident had happened in the work place and that there was no element of direct threat to the complainant. It is the further case of the respondent that the averments in the complaint would only disclose a healthy personal argument and counter argument between the complainant and the respondent beyond the scope of their profession and that the respondent had never degraded the complainant and he had addressed the complainant in a dignified



C.M.A(MD)No.898 of 2022

manner and that he never threatened the complainant as he had no intention to humiliate or insult the complainant.

7. As rightly contended by the respondent, earlier portion of the voice message referred in the first five sub-paragraphs in Paragraph No.7 of the complaint would only refer that though the complainant had been proclaiming herself that she is working for the interest and welfare of the legal fraternity, she was really acting against the interest of the Advocate Community.

8. No doubt, as rightly pointed out by the learned Counsel for the appellant, in the last paragraph of the voice message, the respondent has spoken about his bad antecedents that he was a History Sheeter and that he was detained under the Goondas Act.

9. As rightly observed by the Committee, the said message would only reveal that the respondent has intimidated the complainant with dire consequences by exposing his bad antecedents and the same cannot be taken as a debatable issue between the complainant and the respondent. The Committee, taking note of the said message, has come to a decision



C.M.A(MD)No.898 of 2022

that the above act of the respondent would attract the ingredients of Regulations xi, xii, xiii as defined under the heading “Sexual Harassment” of the said Regulations, 2013. Moreover, the GSIC Committee has taken a decision that the complaint was relating to an incident occurred inside the Court campus and as such, the act and regulations are applicable to the case on hand.

10. The GSIC Committee, after accepting the finding of the Sub-Committee that the charges levelled against the respondent were proved, has proceeded to discuss about the punishment to be awarded to the respondent. Taking note of the fact that the respondent is a practicing Advocate and legal profession is said to be the only source of the income of the respondent, they have unanimously resolved not to punish the respondent and decided to give an opportunity to realize his mistake and mend his ways. Having regard to the nature of accusation against the respondent and other attendant circumstances, the Committee has decided to take a lenient view in the matter of punishment and accordingly, the respondent was admonished and he was directed not to post any message in whatsapp or any other social media implicating the petitioner in any manner hereinafter.



C.M.A(MD)No.898 of 2022

WEB COPY

11. The learned Counsel for the appellant would submit that though the respondent has not pleaded anything that the legal profession is the only source of income, the Committee by itself has taken that aspect and passed the impugned order.

12. In the Bar Council of India Rules, Rule 47 provides that an Advocate shall not personally engage any business and Rule 49 contemplates that an Advocate shall not be a full time employee of any person, Government, firm, Corporation or concern.

13. As rightly pointed out by the respondent, the respondent cannot involve in any other business or employment while he is practicing as an Advocate. Considering the above, the observation of the Committee that since the respondent being a practicing Advocate, his legal profession is said to be the only source of income to the respondent, cannot be found fault with.

14. Section 11 of the Gender Sensitisation and Sexual Harassment of Women at the Subordinate Courts in the State of Tamil Nadu/the



C.M.A(MD)No.898 of 2022

Union Territory of Puducherry (Prevention, Prohibition and Redressal)

Regulations contemplates that the GSICC is having the powers to pass the following orders to secure justice to the victim of sexual harassment and Section 11 reads as follows:

“11. Orders on Inquiry Report. - (1) Subject to Regulation 9(1) above, the GSICC shall have the power to pass the following orders to secure justice to the victim of sexual harassment:

- (a) admonition;
- (b) admonition with publication of such admonition in the Court precincts including cause lists and through the High Court Website;
- (c) prohibition from harassing the victim in any manner including, but not limited to, prohibition from communicating with her in any manner such as phones, messages, electronic means, physical or other means for a specified period; and
- (d) subject to Regulation 11(2), pass all orders, directions, and/or direct taking steps necessary for putting an end to the sexual harassment of the aggrieved woman.”

15. Considering the above, the GSIC Committee is having necessary powers to pass an order admonishing the respondent. The GSIC Committee, taking note of the nature of accusation and the fact that



C.M.A(MD)No.898 of 2022

WEB COPY

the respondent being a practicing Advocate and is not having any other source of income, has decided to pass an order of admonishing the respondent with a direction not to post any message in whatsapp or any other social media implicating the petitioner hereinafter and as such, the impugned order passed by the Committee is very much proper and reasonable and hence, the same cannot be found fault with. Consequently, this Court concludes that the above Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

16. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

23.01.2023

Index : Yes : No
Internet : Yes : No
SSL
To

1.The Gender Sensitization and Internal Complaints Committee
(Chairman/District Judge, Permanent Lok Adalat), Tirunelveli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.M.A(MD)No.898 of 2022

K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY JUDGMENT MADE IN

C.M.A(MD)No.898 of 2022

23.01.2023