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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-18831-2023 (O/M)
Date of decision : 28.08.2023

Mamta Bhatti

..... Petitioner

Versus

The Bar Council of Punjab and Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present:- Mr. Pardhuman Garg, Advocate
for the petitioner.

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HARSH BUNGER, J.

1. Petitioner (Mamta Bhatti) has filed the instant writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari for quashing of the complaint dated 27.02.2023 (Annexure P-1) filed by her husband-Manish Jain (respondent No. 3 herein) before the Bar Council of Punjab and Haryana (respondent No. 1 herein) on the ground of maintainability in view of Section 35 of The Advocates Act, 1961.

2. Briefly, the petitioner is stated to be married to Manish Jain (respondent No. 3 herein) on 21.10.2004 and out of the said wedlock, there are two children (a daughter aged about 15 years and a son aged about 12 years). It is stated that earlier the petitioner and respondent No. 3 had filed a

mutual divorce petition in the year 2021, however, with the intervention of the friends and relatives, the said petition was withdrawn, however, presently, the petitioner and respondent No. 3 are not living together and both children are stated to be living with the petitioner.

3. It is the case of the petitioner that in order to defame and spoil the career of the petitioner, respondent No. 3 has filed a frivolous, baseless and defamatory complaint dated 27.02.2023 (Annexure P-1) before Bar Council of Punjab and Haryana (respondent No. 1 herein) and the said complaint is stated to have been referred further to the Disciplinary Committee of Bar Council of Punjab and Haryana (respondent No. 2 herein).

4. The petitioner seeks quashing of the aforesaid complaint dated 27.02.2023 (Annexure P-1), filed by respondent No. 3 before the Bar Council of Punjab and Haryana (respondent No. 1 herein) on the ground of maintainability by submitting that the aforesaid complaint does not fall within the purview of Section 35 of The Advocates Act, 1961. The petitioner claims that respondent No. 2 (Disciplinary Committee of the Bar Council of Punjab and Haryana) in connivance with respondent No. 3 (Manish Jain) is pressurizing and calling the petitioner to appear before it (respondent No. 2 herein) just to harass and humiliate her. In support of the said allegation, the petitioner places reliance upon the orders dated 10.05.2023, 21.05.2023, 28.05.2023, 08.07.2023, 29.07.2023 and 05.08.2023 (Annexure P-2 to Annexure P-7 respectively). It is further claimed by the petitioner that on 05.08.2023, the petitioner had filed an application for dismissal of the aforesaid complaint dated 27.02.2023

(Annexure P-1), however, it is alleged that the said application has not been taken on record. It is submitted that the dispute between the petitioner and respondent No. 3 is a matrimonial dispute arising out of their personal lives and has nothing to do with the profession and also does not involve any kind of professional misconduct or any other misconduct as mentioned in Section 35 of The Advocates Act, 1961. In view of the aforementioned circumstances, the petitioner has filed the instant writ petition.

5. I have heard learned counsel for the petitioner and have also perused the paper book.

6. A perusal of the paper book would reveal that respondent No. 3 (Manish Jain) had filed a complaint dated 27.02.2023 (Annexure P-1) before the Bar Council of Punjab and Haryana against the petitioner and another advocate Deepak by alleging illegal relationship between them. A perusal of the orders (Annexure P-2 to Annexure P-7), as attached with the writ petition, would show that on 29.07.2023, the following order was passed by the Disciplinary Committee (respondent No. 2 herein) :-

“The complainant has alleged in his complaint that respondent no. 1 is in illicit relation with respondent no. 2 and as such she has committed professional misconduct. However, this is a matrimonial dispute and it can be resolved if all the parties be called in person on the next dated i.e. 5.8.2023 at 2.00 PM.”

A perusal of the above extracted order would clearly indicate that the Disciplinary Committee of the Bar Council of Punjab and Haryana (respondent No. 2 herein) is well aware of the dispute between the parties and the present petitioner has been called in person only to resolve the issues between the parties. Further, a perusal of the order dated 05.08.2023

(Annexure P-7) would show that the petitioner is represented through her counsel before the Disciplinary Committee of the Bar Council of Punjab and Haryana (respondent No. 2 herein) and had rather sought time for the personal appearance of the petitioner and the said request was allowed.

A reading of the order dated 29.07.2023 would manifest that as of now, the Disciplinary Committee of the Bar Council of Punjab and Haryana (respondent No. 2 herein) is not taking any disciplinary action against the petitioner. Rather, the petitioner has been called so that the matrimonial dispute could be resolved between the parties. In the peculiar facts and circumstances of this case involving two advocates; in my considered view, in case, an attempt is being made by the Disciplinary Committee of Bar Council of Punjab and Haryana (respondent No. 2 herein) to call the parties so as to resolve the issues between them, no fault can be found with the same moreso when it has been clearly recorded in the order dated 29.07.2023 that the dispute is a matrimonial dispute.

7. It is apparent that the Disciplinary Committee of the Bar Council of Punjab and Haryana (respondent No. 2 herein) is well aware about its jurisdiction/powers in terms of The Advocates Act, 1961. In case, the parties are able to amicably resolve their issues, it would be in the best interest of all the parties. As regards the contention of the learned counsel for the petitioner that the application filed by the petitioner for dismissal of the complaint dated 27.02.2023 (Annexure P-1) on the ground of maintainability, has not been taken on record by the Disciplinary Committee of Bar Council of Punjab and Haryana; suffice it to say that paperbook

reveals that the petitioner has been called only for resolving the matrimonial dispute, however, in case the parties do not arrive at any resolution of their matrimonial dispute, the Disciplinary Committee of Bar Council of Punjab and Haryana (respondent No. 2 herein) shall consider the application filed by the petitioner regarding maintainability of the complaint dated 27.02.2023 (Annexure P-1) on its own merit before proceeding further in the matter.

8. In view of the above, I do not find any merit in the instant writ petition and the same is accordingly dismissed with the aforesaid observations.

9. Pending Application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

28.08.2023
sjks

Whether reasoned/speaking order : Yes / No

Whether referred to the Reporter : Yes / No