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W.P.No.7093 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.7093 of 2009

Sri M. Sivamani

... Petitioner

Vs.

1. The Secretary,
Bar Council Of Tamilnadu,
High Court Buildings,
Chennai-600 104.

2. Central Bureau Of Investigation,
Anti Corruption Branch,
Shastri Bhavan,
Chennai-600 006.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records in D.C.C. No.32 of 2008 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.M.Arun Kumar for
M/s.Sampath Kumar and Associates

For Respondents : Mr.C.K.Chandrasekar (for R1)



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Mr.K.Srinivasan,
Special Public Prosecutor (for R2)

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The disciplinary proceedings initiated against the writ petitioner by the Bar Council of Tamil Nadu is sought to be quashed in the present writ proceedings.

2. Pursuant to the complaint received from the Superintendent of Police, SPE, C.B.I., A.C.B., Chennai, the Bar Council referred the matter to the Disciplinary Committee for conducting an inquiry. The Disciplinary Committee framed the charges. The said charges are under challenge in the present writ proceedings.

3. The learned counsel for the petitioner would submit that the charges framed by the disciplinary committee and the charges framed by the Criminal Court in criminal case, are one and the same and therefore, the petitioner is liable to be exonerated from the disciplinary proceedings.



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4. Mr.C.K.Chandrasekar, learned counsel appearing on behalf of the Bar Council of Tamil Nadu, would submit that the allegations of misconduct cannot be compared with the offences under the Indian Penal Code or under any other criminal enactment. Therefore, the Disciplinary Committee has to consider all these aspects while passing final orders. Thus, the writ petition is to be rejected. No doubt, the petitioner is acquitted from the criminal charges, on benefit of doubt.

6. The disciplinary proceedings, for the misconduct under the Advocates Act, cannot be compared with the Criminal Trial conducted by the competent Criminal Court of law. The procedures are distinct and different. Certain misconducts under the Advocates Act may not be an offence under the Criminal Law. Therefore, the Disciplinary Committee has to consider all these aspects, while dealing with the disciplinary matters. The judgement of a Criminal Court of law and an order of acquittal on benefit of doubt may be relied on by the persons. However, the order of acquittal alone cannot be a ground to seek exoneration from the disciplinary proceedings initiated under the Advocates Act. It is for the Disciplinary Committee to independently inquire into the allegations and form an opinion, whether a misconduct, as



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contemplated under the Act and Rules, are established. Therefore, the order of acquittal in a criminal case alone cannot be a ground to exonerate an advocate from the disciplinary proceedings initiated by the Bar Council.

7. Therefore, the petitioner is at liberty to submit all the materials including the judgement of the Criminal Court of law before the Disciplinary Committee for the purpose of defending his case. The Disciplinary Committee is empowered to conduct an inquiry and take a decision on merits and in accordance with law.

8. With these observations, the writ petition stands dismissed. No costs.

(S.M.S.J.,)

(C.K.J.,)

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Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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