



WEB COPY

W.P.No.3298 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2024

CORAM

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

W.P.No.3298 of 2024
and
WMP.No.3554 of 2024

T.Subashri Sasikala Devi

.. Petitioner

Vs.

1. The Bar Council of India,
Rep. by its Secretary,
Rouse Avenue, New Delhi - 110 002.
2. The Disciplinary Committee of the
Bar Council of India,
Rep. by its Registrar,
New Delhi - 110 002.
(Circuit bench at Bar Council Premises,
Chennai - 600 104.)
3. Bar Council of Tamil Nadu and Puducherry,
Rep. by its Secretary,
High Court Premises, Chennai - 600 104.
4. G.Rajamani

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying
for issuance of a Writ of Mandamus directing to accept written argument in



B.C.I Tr.Case No.46/2023 in Complaint No.267/2020 before the Disciplinary Committee of Bar Council of India (Circuit Bench at Bar Council premises, Chennai - 600 104) the second respondent herein, after accept the petitioner's recall and reopen petition.

For Petitioner : Mr.Dalit Tiger C. Ponnusamy
For R1 : Mr.S.R.Raghunathan
For R2 & R3 : Mr.C.K.Chandrasekhar

ORDER

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

The prayer made in this writ petition is to issue a Writ of Mandamus, directing the second respondent to accept the written submissions made by the petitioner in B.C.I. Tr.Case No.46/2023 in Complaint No.267/2020 pending on its file, after entertaining the petition to recall and reopen the case, and pass orders.

2. According to the petitioner, she is a practicing Advocate in the Combined Courts of Cuddalore Town & Taluk. Her husband by name, Dr.G.Audi Narayana was working as a Medical Practitioner in Arupadai Veedu Medical College and Hospital, Union Territory of Puducherry and during his service, he died on 24.10.2006 due to heart attack; and that, the petitioner and



WEB COPY

her two sons are his only legal heirs. While so, on 19.10.2019, one G.Rajamani / 4th respondent herein lodged a complaint before the Inspector of Police, District Crime Branch, Cuddalore, alleging that one Jayanthi and the petitioner herein have together collected a sum of Rs.45,00,000/- through bank account and hand cash, for securing job in Neyveli Lignite Corporation, Neyveli for 25 persons. Pursuant to the same, the petitioner appeared before the police for enquiry on 23.10.2018, 04.11.2016 and 05.12.2019 without any default. After completion of the enquiry, the District Crime Branch, Cuddalore, came to a conclusion that the money transaction was only between the said Rajamani and Jayanthi. In this regard, there are two cases filed under section 138 of the Negotiable Instruments Act, by Rajamani against Jayanthi in C.C.Nos.28 of 2019 and 49 of 2019 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Neyveli. Thus, it is clear that the petitioner is in no way connected with the complaint given by the fourth respondent.

2.1. The petitioner further stated that with a *mala fide* intention, the fourth respondent filed a complaint against the petitioner before the Bar Council of Tamil Nadu and Puducherry *vide* complaint No.267 / 2020 dated 11.09.2020, which was taken on record, and notice was issued to the petitioner, to which, the petitioner filed her counter. Thereafter, the said case was



transferred to the first respondent / Bar Council of India and renumbered as Tr.No.46 of 2023. As per the direction of the first respondent, the second respondent took up the case and sent intimation on 14.07.2023 to the petitioner to appear for the hearing. The petitioner duly appeared and submitted her counter. In the subsequent hearing on 01.12.2023, due to ill-health, she was unable to appear before the second respondent. Thereafter, on 22.01.2024, when the matter was taken up, the petitioner appeared along with written submissions, but the second respondent without receiving the same, closed the evidence on the side of the petitioner and adjourned the case for orders. Therefore, the petitioner filed a petition to recall and reopen the case along with written submissions. Finding no response on the same, the present writ petition came to be filed before this court.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a widow and she has not committed any offence as alleged in the complaint lodged by the fourth respondent. Adding further, the learned counsel submitted that after enquiry on the complaint made by the fourth respondent, the District Crime Branch, Cuddalore, had concluded that the money transaction was only between the fourth respondent and Jayanthi and the petitioner was not at all involved in the same. However, in order to wreck



vengeance against the petitioner, the fourth respondent made a complaint to the third respondent. It is further submitted by the learned counsel that the petitioner appeared before the second respondent in person for all the hearings, except on 01.12.2023 due to ill-health. However, without providing sufficient opportunity to the petitioner, the second respondent closed the evidence and posted the case for orders, which is arbitrary, illegal and in violation of the principles of natural justice. Therefore, the petitioner filed a petition to recall and reopen the case along with written submissions, which has not been considered, till date. Stating so, the learned counsel prayed for appropriate orders in this writ petition.

4. On the other hand, the learned counsel for the respondents 2 and 3 submitted that the petitioner has already filed written submissions and the disciplinary committee / second respondent has also received the same and reserved the matter for orders. However, the petitioner insisted the second respondent to receive the additional written submissions by filing a frivolous petition to recall and reopen the case. It is also fairly submitted by the learned counsel that the second respondent will consider the additional written submissions that may be filed by the petitioner and pass orders, on merits and in accordance with law, in BCI Tr.No.46/2023 (Complaint No.267/2020) registered against the petitioner.



WEB COPY

5. Recording the above submissions made by the learned counsel for the respondents 2 and 3, this writ petition stands disposed of, leaving it open to the second respondent to pass appropriate orders, on merits and in accordance with law, in the case registered against the petitioner, after considering the written submissions / additional written submissions, if any, filed by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D, J.] [M.S.Q, J.]
13.02.2024

Internet : Yes

Index : Yes / No

To

1. The Secretary,
The Bar Council of India,
Rouse Avenue, New Delhi - 110 002.
2. The Disciplinary Committee of the
Bar Council of India,
Rep. by its Registrar,
New Delhi - 110 002.
(Circuit bench at Bar Council Premises,
Chennai - 600 104.)
3. The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Premises, Chennai - 600 104.



WEB COPY

W.P.No.3298 of 2



R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

av

W.P.No.3298 of 2024
and
WMP.No.3554 of 2024

13.02.2024