



WP(MD)No.14197 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.14197 of 2024

D.Joseph

... Petitioner

versus

1. The Superintendent of Police,
Kanyakumari District
at Nagercoil.

2. The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the 2nd respondent to conduct preliminary enquiry on the petitioner's complaint dated 25.10.2023 and take further action.

For Petitioner : Mr.C.Mayilvahana Rajendiran
for Mr.V.Malaiyendran

For Respondents : Mr.E.Antony Sahaya Prabakar
Additional Public Prosecutor



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ORDER

The petitioner, a reporter of a leading weekly magazine, has filed this writ petition seeking a Mandamus, directing the second respondent to conduct a preliminary enquiry on his complaint dated 25.10.2023.

2. The allegation made in the complaint of the petitioner is that an Advocate, by name, A.Pramanayagam, has misused his name for filing a false complaint against Hotel Sri Maduram at Palayamkottai in C.C.No. 31 of 2019. When the petitioner went to the hotel, the hotelier has enquired him about the complaint and only thereafter, he came to know that in his name, a complaint has been filed against the Hotel Sri Maduram, before the District Consumer Forum, Tirunelveli. Thereafter, the petitioner has enquired into the issue and found that in his name, six complaints have been filed by the said Advocate and the same are pending in C.C.Nos.160 of 2019, 188 of 2019, 44 of 2019, 97 of 2019, 31 of 2019 and 128 of 2019. According to him, all these cases have been filed in his name by forging his signature. Therefore, he reported the same to the District Consumer Forum, Tirunelveli. The District



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Consumer Forum, Tirunelveli, has also lodged a complaint for perjury before the learned Judicial Magistrate No.I, Tirunelveli and the same was taken on file in C.C.No.1698 of 2022. However, the Advocates at Tirunelveli are not permitting the officials of the District Consumer Forum to give sworn statement.

3. It is also the case of the petitioner that when he enquired about the said Advocate A.Pramanayagam, he found that not less than one thousand complaints have been filed by the said Advocate in the name of his juniors, clerks, sister, sister's daughter and brother and brother's son etc. The *modus operandi* of the said Advocate, according to him, is that by filing complaints in the District Consumer Forum, he extracted money from the owners of the Hotel and thereafter, he withdrew the complaints. After knowing this, the petitioner has also reported the same to the Bar Council of Tamil Nadu on 12.05.2022, which has been registered as complaint No.150 of 2022. He also came forward with yet another complaint lodged in the District Forum, Nagercoil. Thereafter, the petitioner has lodged a complaint before the Inspector of Police,



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Vadaseri Police Station, Kanyakumari District on 25.10.2023. But, the respondent Police has not registered any case as against the said Advocate. Therefore, the petitioner has filed this writ petition seeking a Mandamus to the respondent Police to register the complaint.

4. This Court is normally not entertaining such plea when the petitioner is having alternative remedy under Section 154(3) Cr.P.C. before the concerned Superintendent of Police and also under Section 156(3) Cr.P.C. before the concerned learned Judicial Magistrate. However, in this case, the allegation is against an Advocate. The Police officials are normally having a fear to take action against the Advocates, apprehending agitation from the Bar Associations.

5. The learned counsel appearing for the petitioner submits that an officer of the District Consumer Forum, Tirunelveli, could not give his sworn statement in C.C.No.1698 of 2022 for the past two years. The learned counsel has referred to the order passed by a Division Bench of this Court in W.P.(MD)No.16621 of 2022 dated 28.07.2022 and submits



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that despite the order of the Division Bench of this Court, the Bar Council of Tamil Nadu is not taking action against the said Advocate.

6. Considering the state of affairs in this case, this Court ordered notice to the respondents and to file a report before this Court.

7. A status report has been filed by the Inspector of Police, Vadaseri Police Station, Kanyakumari District. In the status report, the Inspector of Police has stated that a case in Crime No.211 of 2024 was registered on the file of the Vadaseri Police Station, for the offence under Sections 465, 467, 469, 471 and 420 IPC. The Inspector of Police has also stated that he sent a requisition letter to the District Consumer Redressal Forum, Kanyakumari District, seeking documents pertaining to C.C.No.29 of 2019, but, the same was not provided by the District Consumer Redressal Forum and therefore, there is some delay in registering the case. The Inspector of Police has also stated that the case in C.C.No.29 of 2019 filed in the name of the petitioner was closed as not pressed.



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8. This Court considered the rival submissions made.

9. The legal profession is still considered to be a noble profession.

The common man is giving importance to the dignity, rather than his life and therefore, they are worshipping the Advocates as their god. This respect on the Advocate is on account of the conduct of the Advocates who were in the profession in the past decades. Even if an Advocate violates the traffic rules, police are not taking action against them, if the vehicles possess an advocate sticker and therefore, almost all the rowdy elements, criminals and violators of law are now using the advocate stickers as a shield to prevent action for their violations. Whenever actions are taken against a Member of the Bar, immediately, the Members of the Bar Associations are boycotting the courts and protesting against the police officers.



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10. The higher police officers are also convincing the Bar Associations by taking appropriate action against the concerned officers, who are taking action against the Advocates and therefore, none of the police officer in the State is having courage to take action against the erring advocates. The Bar Council and the Bar Associations, which are expected to protect the interest of Advocates, are also having a duty to maintain the discipline of the Advocates and their members. However, in the democratic system, it is quite not possible.

11. The petitioner in this case is a reporter of a leading weekly journal in the State. Therefore, he had some courage to lodge a complaint against the said Advocate, who has filed six complaints in his name by forging his signature. It is a very big fraud, which has not been dealt with by the respondent Police. The petitioner has also reported before the District Consumer Forum. The District Consumer Forum has also initiated action against the said Advocate, who has committed perjury before the District Consumer Forum, by lodging a complaint under Section 195 (1)(b) r/w. 340 Cr.P.C. before the learned Judicial



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Magistrate No.I, Tirunelveli and it was also taken on file in C.C.No. 1698 of 2022. It is very unfortunate that the complainant in C.C.No. 1698 of 2022 was not permitted to give his sworn statement in C.C.No. 1698 of 2022.

12. The petitioner, who is a reporter, is also capable of collecting details against the said Advocate, who has filed false complaints in his name and found that not less than 1000 complaints have been filed by the said Advocate in the name of his juniors, clerks, sister, brother etc. and he has also withdrawn those complaints or not pressed the complaints after receiving amount from the opposite parties. By collecting these materials, the petitioner has also lodged a complaint before the Bar Council of Tamil Nadu on 12.05.2022. The said complaint was taken on file by the Bar Council of Tamil Nadu in complaint No.150 of 2022. The Bar Council of Tamil Nadu, which is expected to take appropriate action on that complaint and to prevent the said Advocate from indulging in further offence, has not taken any action for the reasons best known to them.



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13. The petitioner has also approached this Court by way of a writ petition in W.P.(MD)No.16621 of 2022 seeking a direction to the Bar Council of Tamil Nadu to complete the enquiry in Complaint No.150 of 2022. The Division Bench of this Court, by order dated 28.07.2022, disposed of the said writ petition as under:

“5. Having regard to the nature of allegation and the fact that pendency of the complaint in Complaint No.150 of 2022 before the first respondent is confirmed by the learned counsel appearing for the first respondent, this Court, without expressing any opinion on the merits of the case and without issuing notice to the second respondent, is inclined to dispose of the Writ Petition by giving a direction to the first respondent to complete the enquiry initiated against the second respondent in Complaint No. 150 of 2022 within a period of three months from the date of receipt of a copy of this order.”

14. The order of the Division Bench of this Court dated 28.07.2022 in W.P.(MD)No.16621 of 2022 was not complied with by the Bar Council of Tamil Nadu. The Bar Council of Tamil Nadu, who is



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expected to be an example for the members of the council, is violating the order of this Court and it is not known as to whether the petitioner is having any determination to file a contempt petition against the Bar Council of Tamilnadu.

15. The Bar Council is not having any proper control and also permitting the rowdy elements to enroll as an advocate and ultimately, the reputation of Advocate is affected in the Society. The Bar Council itself, which is expected to protect the respect of the advocates in the Society, is spoiling its image by not taking appropriate action as against the erring advocates. Now, the respondent Police has registered a criminal case.

16. Since the Bar Council of Tamil Nadu has not taken cognizance on this issue, the Inspector General of Police, South Zone, Madurai, is directed to form a special team in Crime No.211 of 2024 and to collect the details with regard to the manner in which the complaints have been filed and withdrawn by the said Advocate



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Pramanayagam and to take appropriate action against those involved and prevent them from indulging in further offence. The investigating Officer, in Crime No.211 of 2024 is directed to forward a copy of the final report to the Bar Council of Tamilnadu. The petitioner can workout his remedy as against the Bar Council of Tamil Nadu, by filing a contempt petition.

17. With the above directions, this writ petition is disposed of.

No costs.

24.07.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes/No.

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To

1. The Inspector General of Police,
South Zone.
2. The Superintendent of Police,
Kanyakumari District
at Nagercoil.
3. The Inspector of Police,



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Vadaseri Police Station,
Kanyakumari District.

B.PUGALENDHI, J.

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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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