



WP(MD)No.34 of 2024

WEB COM BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2024

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.(MD)No.34 of 2024

and

W.M.P.(MD)Nos.27 & 28 of 2024

Rengabathagadevi

... Petitioner

/vs./

1.The Inspector of Police

District Crime Branch,

Pudukkottai,

Pudukkottai District.

2.J.Adaikalaraj

3.B.Nagalingam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the 1st Respondent summon in C.No.724/INS/DCB/ PDK/ 2023 dated 11.10.2023 and to quash the same as illegal and consequently



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direct the 1st Respondent not to harass the Petitioner under the guise of enquiry.

For Petitioner : Mr.A.Arul Jenifer
for M/s.KBS Law Office
For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor for R1

ORDER

The Petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the 1st Respondent summon in C.No.724 / INS / DCB / PDK / 2023 dated 11.10.2023 and to quash the same as illegal and consequently, direct the 1st Respondent not to harass the Petitioner under the guise of enquiry.

2. It is the submission of the learned counsel for the Petitioner that the Petitioner as a Practising Advocate had assisted the 3rd Respondent. The 3rd Respondent is alleged to have executed Power of Attorney deed in favour of the 2nd Respondent as well as to some other persons and sold the property. Now, the complaint had been lodged by the



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2nd Respondent before the Inspector of District Crime Branch; under the guise of enquiry, the 1st Respondent - Inspector of Police, District Crime Branch, Pudukkottai, had issued summons to the Petitioner in the address of the Bar Association, Pudukkottai. It affects his reputation in the general public. It is the further submission of the learned counsel for the Petitioner that when the police officials are unable to proceed with the investigation, they wantonly issue summons to the Petitioner through the President of Bar Association.

3. The learned Additional Public Prosecutor vehemently objected to the same stating that as per the reported Ruling of the Hon'ble Supreme Court in the case of ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1***, before registering the case, the police had conducted preliminary enquiry, when there was sufficient materials through the Respondent in the complaint that the Investigation Officer had issued summons, in the light of the directions of the ***Lalitha Kumari's*** case. It is the further submission of the Additional Public Prosecutor that the summon was also sent to the address of the Petitioner herein on 2 days,



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ie. 01.12.2023 and 04.12.2023. The Petitioner herein, who is a Practising Advocate, did not respond. Hence, the first Respondent – Investigation Officer was forced to issue summons in the address of the President, Bar Association, Pudukkottai District, on 18.12.2023. The Petitioner as a Practising Lawyer, cannot make such averment and seek to quash the summon, which is against the reported Ruling in ***Lalitha Kumari's*** case. Further, he submits that as per the preliminary enquiry conducted, there are doubts regarding the involvement of the Petitioner in the alleged transaction. To clear the doubt as a Citizen of this Country, she has to appear before the Investigation Officer. He further submits that already a complaint was given by the 2nd Respondent against the Petitioner with the Bar Council of Tamil Nadu and Puducherry, conducted enquiry as per the Bar Council Act and Advocates Act. Therefore, the apprehension expressed by the Petitioner will not hold good as the Citizen of this Country. She has to co-operate with the preliminary enquiry and there is no F.I.R against her.

4. On consideration of the rival submissions, the submission of the learned counsel for the Petitioner cannot be accepted under Article



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226 of the Constitution of India, this Court cannot prevent an Investigation Officer from making preliminary enquiries, merely ordering summons or appearing before the Investigation Officer will not lower dignity of the Counsel, particularly, Advocates as appearing before various public officials or also appearing before various police officials and Police Station. Therefore, it will not affect the reputation in the eyes of the public.

5. As per the submission of the learned Additional Public Prosecutor, the 2nd Respondent had preferred a complaint to the Bar Council. The Bar Council of Tamil Nadu had already conducted enquiry and closed it as there is no relationship of the Client and the Counsel, which is in favour of the Petitioner herein. Therefore, there is no apprehension in against the Petitioner. It will not damage her reputation. The Petitioner shall appear before the Inspector of Police, District Crime Branch, Pudukkottai. The Investigation Officer either to drop the case or to register the case, as per the reported Rulings of the Hon'ble Supreme Court in ***Lalitha Kumari's*** case. The Petitioner is expected to help the



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Investigation Officer to arrive at a just conclusion. Therefore, this Petition lacks merits and accordingly, it is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.01.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes/ No
LS

TO:

1. The Inspector of Police
District Crime Branch,
Pudukkottai,
Pudukkottai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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