



W.P.No.1966 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

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CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.1966 of 2025

and

W.M.P.No.2299 of 2025

Mr.D.Alexis Sudhakar

... Petitioner

Vs.

The Bar Council of Tamil Nadu and Puducherry,
Represented by the Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus,
Chennai 600 104.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for all the records pertaining to the Prohibitory order vide Resolution No.683 of 2024 dated 05.07.2024 in R.O.C.No.975 of 2024 through Notification No.9 of 2024 dated 09.07.2024 and quash the same as arbitrary and illegal.



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For Petitioner	: Mr.V.Raghavachari Senior Counsel For Mr.K.Ragunath
For Respondent	: Mr.C.K.Chandrasekhar Standing Counsel [For Bar Council of Tamil Nadu]

ORDER

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The order of suspension dated 09.07.2024, suspending the practise of the petitioner as a lawyer by the Bar Council of Tamil Nadu and Puducherry, is sought to be assailed in the present writ petition.

2. The petitioner states that he is a practising advocate of the High Court of Madras, with enrolment No.269 of 2009. The Bar Council of Tamil Nadu issued the impugned Prohibitory Order vide Resolution No.683 of 2024, dated 05.07.2024. This was based on the complaint received from the Superintendent of Police, Chengalpattu stating that criminal cases had been registered against the petitioner in Crime No.334 of 2024 under Sections 294(b), 353, 307 and 506(ii) of Indian Penal Code (IPC) read with Section 25(1A) of Arms Act, 1959, @ 294(b), 353, 307, 506(ii) and 34 of IPC read



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with Section 25(1A), 25(1AA), 27(2) of Arms Act, 1959 on the file of the Mamallapuram Police Station.

3. The complaint reveals that the petitioner allegedly supplied firearm and ammunition to a notorious history-sheeter rowdy named Sathya @ Sirkazhi Sathya, who attempted to fire at a Police Personnel during a vehicle check-up on East Coast Road (ECR) on 28.06.2024. In connection with this criminal case, the petitioner was arrested and remanded to judicial custody.

4. The complaint was placed before the General Council of the Bar Council for taking appropriate action. After elaborate discussion, the General Council considered the nature of the criminal case registered against the petitioner relating to the allegations of commission of heinous offences. In order to maintain professional standards and protect the nobility of the profession, the General Council passed a resolution dated 05.07.2024, prohibiting the writ petitioner from practising as an advocate in any Court of Law, Tribunal, etc., either in his name or any assumed name, until the disposal of the criminal case.

5. Mr.V.Raghavachari, the learned Senior Counsel appearing on behalf

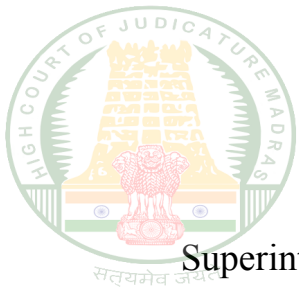


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of the petitioner would submit that the petitioner is a legal practitioner, approximately practising legal profession for about 15 years. He has not been involved in the commission of any offence. A false criminal case has been registered against him, and he is in no way connected to the allegations. As a lawyer, he has represented numerous notorious history-sheeters and political parties. Therefore, the complaint itself appears to be motivated. Based on the complaint filed by the Superintendent of Police, Chengalpattu, the Bar Council ought not to have initiated action without verifying the petitioner's credentials. Consequently, the impugned order is liable to be set aside.

6. The learned Senior Counsel would urge this Court that there is no basis for the complaint and the criminal case itself was registered after a lapse of about 11 years. Therefore, the said case cannot form any basis for issuing the impugned Prohibitory Order.

7. Mr.C.K.Chandrasekhar, the learned Standing Counsel appearing on behalf of the Bar Council of Tamil Nadu and Puducherry relying on the report submitted by the Bar Council would submit that approximately 7 criminal cases are registered against the petitioner. In some of the criminal cases, the allegations are heinous in nature. The complaint was received from the



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Superintendent of Police, Chengalpattu. The Council considered the complaint elaborately and after deliberations took a decision to issue the Prohibitory Order, which is in consonance with the provisions of the Act and Rules. The inquiry is in progress and the Bar Council has to conduct a detailed inquiry into the allegations and take a final decision. The petitioner has to participate and cooperate for the completion of disciplinary proceedings initiated against him. Thus, the writ petition is to be rejected.

8. Section 35 of the Advocates Act, 1961 enumerates Punishment of Advocates for Misconduct. Sub Section (1) denotes, “Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee”. Professional misconduct includes misconducts both inside the Courts and outside the Courts. Lawyers enjoy a special status in the society by virtue of legal profession. They owe duty towards the society. Therefore, their conduct both inside and outside is expected to be good.

9. In the context of Section 35 of the Advocates Act, Chapter II of the Bar Council of India Rules provides the standards of professional conduct



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and etiquette to be observed by advocates. This Rules was made under

Section 49 (1)(c) read with the proviso thereto. Preamble of the Rules stipulates that *“An Advocate shall, at all times, comfort himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentle man, bearing in mind that what may be lawful and a moral for a person, who is not a member of the Bar”*.

10. Section V of the Bar Council of India Rules speaks about duty towards Society and Bar. “An Advocate shall conduct himself/herself as a gentleman/gentle lady in his/her day to day life and he/she shall not do any any unlawful act, he/she shall not make any statement in the Print, Electronic or Social Media, which is indecent or derogatory, defamatory or motivated, malicious or mischievous against any Court or Judge or any member of the Judiciary, or against State Bar Council or Bar Council of India nor shall any Advocate engage in any willful violation, disregard or defiance of any resolution or order of the State Bar Council or the Bar Council of India and any such act/conduct shall amount to misconduct and such Advocates would be liable to be proceeded with under Section 35 or 36 of the Advocates' Act, 1961”. The procedures for disciplinary proceedings are also contemplated under the Rules. Therefore, the overall conduct of the Lawyer towards the



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Court, Colleagues, and Society in general are to be taken into consideration for the purpose of forming an opinion, whether a particular allegation is falling under other misconduct or not.

11. Undoubtedly, a lawyer involved in a criminal case relating to heinous offences are liable for disciplinary actions. However, this Court at this stage cannot consider the issues on merits, since the criminal cases referred in the complaint are under investigation. The details of First Information Report (F.I.R) registered against petitioner have been stated in the complaint submitted to the Bar Council of Tamil Nadu and Puducherry by the Superintendent of Police, Chengalpattu.

12. As far as the interim suspension/prohibitory order is concerned, it cannot be construed as punishment. The power of removal contemplated under the Act confers power on the Bar Council to suspend the practise of a lawyer during the pendency of the disciplinary proceedings.

13. At the outset, the power to remove implies that the Bar Council has the authority to suspend the lawyer's practise during the pendency of a complaint or criminal cases. Consequently, the interim suspension/



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prohibitory order need not be interfered by the High Court in exercise of the power of judicial review, unless there is no *prima facie* case made out against the lawyer.

14. In the present case, the report filed by the Bar Council reveals that following criminal cases are registered against the petitioner:

<i>Sl.No.</i>	<i>Case Details</i>	<i>District</i>
1.	Crime No.334/2024 u/s. 294(b), 353, 502(2) & 307 of IPC and Sec. 25(1A), 25(1Aa) and 24(2) of Arms Act, on the file of Mamallapuram Police Station.	Chengalpattu
2.	Crime No.343/2025 u/s. 279, 283, 285, 286 & 143 of IPC, Section 4B of TNOPPD Act, Section 184, 190(2) of MV Act and Section 143 of IPC, on the file of Mamallapuram Police Station.	
3.	Crime No.348/2024 u/s.4(1)(a), 4(1)(k), 4(1)(i) and 4(1)(j) of TNP Act, on the file of Mamallapuram Police Station.	
4.	Crime No.177/2024 u/s.406, 420 and 506(ii) of IPC on the file of Kuniamuthur Police Station.	Coimbatore
5.	Crime No.184/2024 u/s. 364A of IPC on the file of Pallavaram Police Station.	
6.	Crime No.674/2023 u/s. 143, 151 & 185 of IPC on the file of Pallavaram Police Station.	Tambaram
7.	Crime No.420/2024 u/s. 3 of TNOPPD Act on the file of Pallavaram Police Station.	



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WEB COPY15. The complaint received from Police reveals that the advocate continue to engage in criminal activities, and a history sheet has been opened and maintained by T3 Pallavaram Police Station in H.S.No.2 of 2024. After receiving the said complaint, the same was placed before the General Council meeting held on 23.01.2024 for consideration. Along with the complaint, the representation received from the petitioner was also placed before the General Council meeting. After elaborate discussion, the complaint was referred to the Disciplinary Committee No.X of the Bar Council for inquiry and disposal.

16. Therefore, the Bar Council is in the process of conducting an inquiry into the allegations against the petitioner.

17. Mr.V.Raghavachari, the learned Senior Counsel would submit that an outer time limit may be fixed for completion of the disciplinary proceedings by the Bar Council of Tamil Nadu and Puducherry. The legal principles in this regard is laid down by the Constitution Bench of the Hon'ble Supreme Court of India in the case of ***High Court Bar Association, Allahabad vs. State of Uttar Pradesh and Others***¹, held as follows:

1. (2024) 6 SCC 267



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“47.3. Constitutional courts, in the ordinary course, should refrain from fixing a time-bound schedule for the disposal of cases pending before any other courts. Constitutional courts may issue directions for the time-bound disposal of cases only in exceptional circumstances. The issue of prioritising the disposal of cases should be best left to the decision of the courts concerned where the cases are pending;”

18. However, the present case would not fall under the exceptional clause. Thus, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

[S.M.S., J.] [M.J.R., J.]
28.01.2025

Index : Yes
Speaking order
Neutral Citation : Yes
Jeni

To

The Secretary,
The Bar Council of Tamil Nadu and Puducherry,
Bar Council of Tamil Nadu and Puducherry,



High Court Campus,
Chennai 600 104.

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AND
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