

WP.No.16181/2020 & WMP.No.20195/2020

M.SATHYANARAYANAN, J.,
AND
R.HEMALATHA, J.,

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) Notice of motion returnable on 16.12.2020. Private notices to all the respondents, on all permissible modes, are also permitted.
- (2) Mr.M.Santhanaraman, learned counsel accepts notice on behalf of the 1st respondent and Mr.V.Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of respondents 2 to 5.
- (3) The present writ petition is filed by the Bar Council of Tamil Nadu and Puducherry represented by the Secretary and in the affidavit filed in support of the writ petition, among other things, it is averred as follows.
- (4) The Bar Council of Tamil Nadu and Puducherry, being the statutory body, is responsible to protect and prevent each and every act of infraction / illegal attempts made against the Institution, viz., the Judiciary and it is also pointed out that the foundation of the Judiciary is trust and confidence of the people in its ability to deliver fearless and impartial justice and when the foundation itself is shaken by acts,

misdeeds and repeated vituperative utterances being made by the 9th respondent who is a Former Judge of this Court, it tempt to create disrespect and lower down the image and authority of the Court among the general public.

(5)Mr.S.Prabhakaran, learned Senior Advocate who is also the Co-Chairman of the Bar Council of India assisted by Mr.C.K.Chandrasekar, learned counsel on record, has drawn the attention of this Court to the contents of the affidavit filed in support of this writ petition as well as the vernacular as well as English translated version of the uploads of the said vituperative and unparliamentary and rather, vulgar utterances made by the 9th respondent through visual media, which has been uploaded by the 10th respondent in the social medias, viz., respondents 6, 7 and 8 and would submit that it is beyond the pale of imagination that the 9th respondent, who was an advocate and who also held the responsible Constitutional position being a Judge of this Court for nearly 9 years, has lower down to such a low level and made false, defamatory and other allegations, not only against the Hon'ble Judges of the Supreme Court of India, Former Judges of this Court but also against the family members, especially, the women-folk.

(6)It is further pointed out by the learned Senior counsel for the petitioner that in the process, the 9th respondent, by throwing into wind, the decency of norms, had also made similar kind of allegations against the former female staffs of this Court as well as the present female employees of the High Court and the same would constitute violations and offences under the provisions of the Sexual Harassment of Women at Work Place [Prevention, Prohibition and Redressal] Act, 2013. It is also pointed out that even a person of a normal and below average intelligence who is not at all educated, would be dare enough to make such a kind of stypic, vituperative, obscene and unparliamentary allegations against the Constitutional functionaries and more particularly, the family members of the Hon'ble Judges, female staffs of the High Court and he has gone to the extent of making such kind of allegations against women Judges, who also adorned the Bench.

(7)The learned Senior Counsel, in this regard, has also invited the attention of this Court to the judgment rendered by the Hon'ble Supreme Court of India reported in **2017 [7] SCC 1 [CB] [In Re Hon'ble Shri Justice C.S.KARNAN]** in Suo Motu Contempt Petition [C] No.1 of 2017 and would submit that at the relevant point of time,

the 9th respondent used to make allegations in the form of passing Letter pad orders and now, in the present circumstances, similar kind of utterances made by him, started to be uploaded by the 10th respondent in the social media, viz., respondents 6 to 8. It is also the submission of the learned Senior counsel that the reach of the visual media, especially, the social media, is far and very wide and also reaches the people within a short span of time and more than twelve of such kind of uploads have already been done and each upload spanning about one hour and odd and if it is allowed to continue, it would cause incalculable damage to the majestic reputation of the Institution, viz., the Judiciary. Attention of this Court has also been invited to the findings rendered by the Apex Court in the above cited decision.

(8) It is also the argument of the learned Senior counsel that despite the complaint/representation dated 06.11.2020 given to the 4th respondent, with copies marked to respondents 1 to 3 as well as to the Principal Secretary to Government, Home Department, Secretariat, Chennai-9, not even CSR has been registered despite the fact that the contents of the complaint *prima facie* disclose commission of various cognizable offences and prays for appropriate orders.

(9) This Court paid its anxious consideration and best attention to the arguments advanced by the learned Senior counsel appearing for the petitioner and also carefully scanned and scrutinised the materials placed before it.

(10) In the decision reported in 2017 [7] SCC 1 [CB] [cited supra], the Hon'ble Supreme Court of India had initiated Suo Motu Contempt against the 9th respondent, who at the relevant point of time was the sitting Judge of this Court and thereby, holding an important Constitutional position.

(11) The Hon'ble Apex Court had also taken note of his utterances and made the following observations:-

"57. But, the frequency and gravity with which the contemnor made such allegations against his colleagues and the manner in which such allegations are made public, certainly would have some adverse impact on the reputation of the individual Judges against whom allegations are made, the image of the Madras High Court, and perhaps is likely to undermine the credibility of the judiciary in this country. Consequently, the activity

of contemnor required scrutiny to determine whether the same would constitute contempt of Court. In spite of the repeated episodes of the accusations by the contemnor, no authority under the Constitution of India competent to examine the allegations ever thought it necessary to act upon the contemnor's accusations. But that did not deter the contemnor. His activity continued unabated.

.....
79. The Court is only sad to point out that apart from the embarrassment that this entire episode has caused to the Indian judiciary, there are various other instances [mercifully which are less known to the public] of conduct of some of the members of the judiciary which certainly would cause some embarrassment to the system."

(12) This Court has also gone through the vernacular version of the various uploads as well as the rough English translation of the same and it is rather unfortunate to note that the 9th respondent who held one of the important Constitutional Post, had gone down to such a level

and repeatedly making serious scandalous, vituperative, obscene and unparliamentary utterances against the former Judges and some of the sitting Judges of the Hon'ble Supreme Court of India as well as former Judges and sitting Judges of this Court as well as the family members, especially, the women-folk and that apart, the tirades continues to be unabated by making similar kind of allegations against female staffs of High Court also and women lawyers also including a designated Senior Advocate.

(13) This court, on a thorough appreciation of the submissions made and consideration of the relevant materials, is of the considered view that the said acts of the 9th respondent, *prima facie*, constitute commission of various cognizable offences including the Sexual Harassment on Women at Work Place [Prevention, Prohibition and Redressal] Act, 2013.

(14) It is also pointed out by the learned Senior counsel that the 9th respondent is also instrumental in uploading the said obscene messages through visual media platforms and therefore, prays for appropriate interim orders and also pointed out during the course of argument that the 9th respondent along with some other persons, also barged into the premises of a former Judge of the Hon'ble Supreme

Court of India, who is also having a permanent residence here and despite a complaint has been lodged in that regard and registration of FIR, no action, whatsoever, has been taken by the 4th respondent.

(15) This Court, on a careful scrutiny and consideration of the materials and taking into consideration the majesty of this Institution in general as well as the judiciary in particular, is of the considered view that if the 10th respondent continues to upload the said kind of messages in public/social media platforms, viz., respondents 6 to 8, damage will continue to be incalculable and will totally undermine this Institution and thus, a *prima facie* case has been made out for grant of interim order ; otherwise, these kind of tirades continue to happen which will, not only cause embarrassment to the former and sitting Hon'ble Judges of the Hon'ble Apex Court as well as to the former and sitting Hon'ble Judges of this Court, but also to the family members, especially, the women-folk. The allegations, *prima facie*, appear to be highly defamatory also.

(16) Thus, balance of convenience as on today, lies in favour of the petitioner, which is a Statutory body.

(17) Hence, there shall be an order of ad-interim direction as prayed for, until further orders.

(18)Call on **18.12.2020.** Counter affidavits of the official respondents,
with supporting documents by then.

[MSNJ] [RHJ]
10.11.2020

AP
Internet:Yes

NOTE:- Communicate the above order to the official respondents
including the suo motu impleaded 7th respondent.

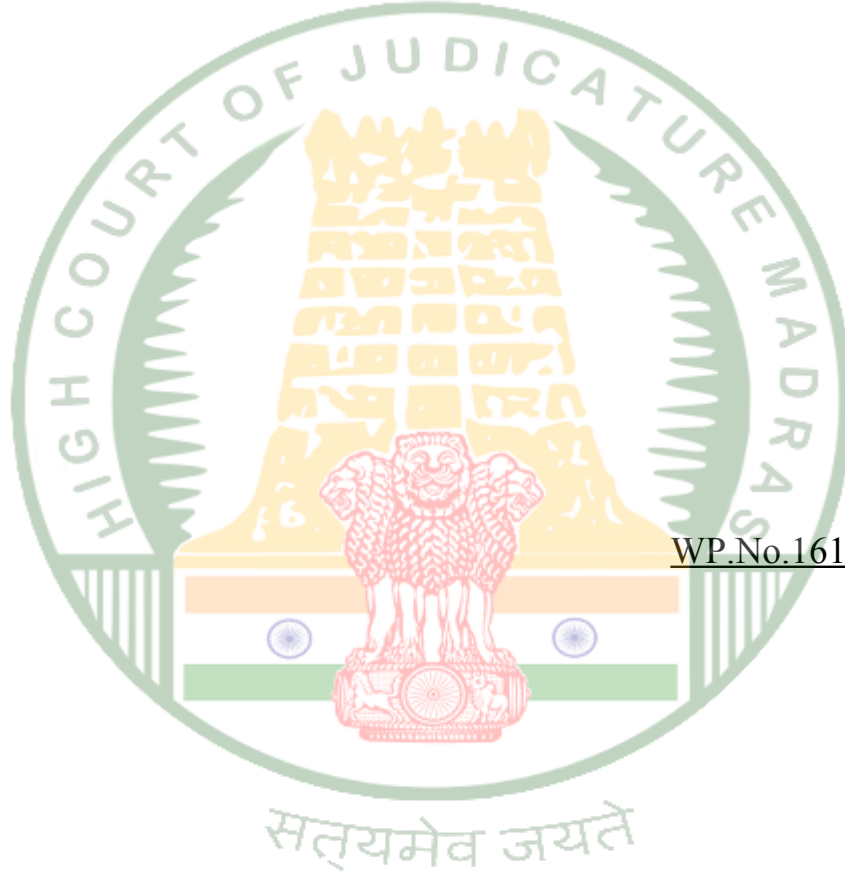


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