

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
17.06.2021	18.06.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P. NO. 10387 OF 2021

1. Tanuja Rajan @ Tanuja Kanthula
2. Preeti Rajan .. Petitioners

- Vs -

1. State, rep. By
Inspector of Police
G-7, Chetpet Police Station
Chennai 600 031.

2. Bar Council of Tamil Nadu
Chennai. ..
Respondents
(R-2 impleaded vide order of
Court dated 15.6.2021)

Criminal Original Petition filed u/s 438 Cr.P. C. praying this Court to
enlarge the petitioners/accused on bail in the event of arrest by the
respondent police in Crime No.192 of 2021 pending investigation before
the respondent.

For Petitioners : Ms. A.Louisal Ramesh

For Respondent : Mr. A.Gopinath, GA (Crl. Side) for R-1

Mr. Haja Mohideen Gisthi for R-2

ORDER

Lady Justice is the allegorical personification of the moral force in judicial systems. Her attributes are a blindfold, a beam balance, and a sword and the balance denotes that justice needs to be delivered with eyes closed and ears open. True to the said analogy, which has been followed time immemorial, the justice delivery system in our country is following the same to deliver impartial justice to one and all without reference to any of their personal traits.

2. One such case is on board this Court in the form of a member of the legal fraternity being implicated in Crime No.192/2021 for the offences punishable u/s 269, 270, 290, 294 (b), 353 and 506 (i) IPC and Section 51 (b) of the Disaster Management Act. Anticipatory Bail was sought for by the petitioners herein, who were implicated in the said case before the learned Principal Sessions Judge, Chennai and on its rejection, the petitioners are before this Court pleading similar relief at the hands of this Court.

3. The sum and substance of the case registered by the respondent police is that the 2nd petitioner was stopped by police officials on duty on the early morning hours (7.15 a.m.) of 6.6.2021, while she was proceeding in her car. There being lockdown guidelines in force, in view of the pandemic that is ravaging the entire human race, and the provisions of the Disaster Management Act having been enforced, the 2nd petitioner's vehicle was stopped and on query as to the reason for the 2nd petitioner coming out during the said period, while it is the version of the 2nd petitioner that she had come out for the purpose of purchasing medicines, however, on behalf of the respondents, it is informed that the 2nd petitioner had stated that she had come out for purchasing fish. It is to be pointed out that the 2nd petitioner was not in possession of a valid pass for going out during the lockdown period.

4. Be that as it may. Enquiry resulted in the 2nd petitioner informing that she has no requisite official permission to come out for the said errand resulting in the law enforcing agency issuing a challan for payment of fine to the tune of Rs.500/-. Here too, two versions relating to payment of fine, one on behalf of the petitioners and other on behalf of the

respondents are placed, of which, for reasons stated in the order passed by the Court below, the court below has accepted the version projected by the respondents and this Court for the present is not concerned on the said aspect.

5. The whole melee started only after issuance of the challan. It is the allegation of the prosecution that on the challan being issued, the 2nd petitioner quarreled with the police officials on duty and, thereafter, had a telephonic conversation, which resulted in the arrival of the 1st petitioner at the scene in another car. The resultant scene thereafter is history, which was flashed throughout the length and breadth of the State by the visual media. The overall picture of the said scene, according to the prosecution, is that the 1st petitioner, claiming and proclaiming that she is an advocate, used filthy, abusive and unparliamentary language, used derogatory words and castigated the police officials on duty and in fact threatened them that they will be stripped off their uniforms, if they tried to intervene and cause any hindrance to the movement of the petitioners. So doing, the 1st petitioner escorted the 2nd petitioner to the car which the 2nd petitioner was driving and both the petitioners left in the two cars, in which they had come.

The whole scene was enacted in the full view of the general public in which, according to the respondents, the police officials, who were discharging their lawful duty, were smeared all over with mud by the 1st petitioner. Therefore, for total violation of the lockdown guidelines and non-adherence to the provisions of the Disaster Management Act and violation of the provisions of the Indian Penal Code, the petitioners were slapped with by filing of the above complaint leading to the registration of the case.

6. When the matter was listed before this Court on 15.6.2021, for the first time, while this Court lamented about the descendancy in the professional approach and behaviour of some of the members of the legal fraternity, which casts a dark spot over the whole multitude of persons practicing the legal profession, without going into the issue which was placed before this Court, with a view to find out the shortcomings which have led to the pitiable state where the Bar, which had commanded respect and appreciation not only for its legal acumen but also for maintaining its professional and ethical standards from the legal community throughout the Nation, thought it just and necessary to implead the Bar Council of Tamil Nadu to place before it the mechanism, which is in place, for taking

action against the erring advocates, who, with scant regard to their professional status, try to besmirch the whole legal profession for their individual benefit and necessity. This Court, therefore, directed the Bar Council of Tamil Nadu, being the regulatory authority, to file a status report as to mechanism that is in place for taking action taken against such of those unruly advocates, who casts a slur by their act, demeaning the whole legal profession without bothering about the impact of their acts on the disciplined and law abiding members of the legal fraternity.

7. In furtherance to the said direction issued by this Court, status report has been filed by the impleaded 2nd respondent. Before going on to appreciate the issue relating to grant of anticipatory bail to the petitioners in the present case, this Court would like to have a bird's eye view of the status report filed by the 2nd respondent.

8. While the status report has tabulated the procedures provided in the Advocates Act for taking action against the erring advocates in the discharge of their professional duties, emphasis was laid on Section 35 of the Advocates Act to stress that the 2nd respondent, on receipt of

complaint against any advocate, who has been guilty of professional or other misconduct, upon scrutiny of the complaint, refers the matter to the tiers of authority constituted for this purpose until it reaches the door of the General Council of the Bar Council of Tamil Nadu which considers the issue for deciding contemplation of further proceedings against the members. The steps following the said decision are also tabulated in the status report. Further, the avenues open to the person, who has been proceeded with has also been provided.

9. It is to be pointed out that the mechanism as envisaged u/s 35 of the Advocates Act for proceeding against a member of the Bar for unprofessional conduct or other misconduct has been placed before the Court, however, the said provision speaks only about the complaint received on which action is initiated by the Bar Council. However, insofar as instances, which comes to the knowledge of the Bar Council for which no complaint is received by the Bar Council, it is not clear as to what is the mechanism by which the Bar Council initiates action against the concerned member, if at all it initiates any action against such erring members. It is also not clear from the status report as to the *suo motu* powers of the Bar

Council in dealing with such instances, where the unprofessional act comes to the knowledge of the Bar Council, though not on the basis of a complaint, in which cases, the matters such as these go unnoticed, though it is in the public domain and reaches the ears and eyes of the public through the visual media. However, the status report is silent, which would only lead to the inference that generally no action is taken against such persons, if there is no complaint before the Bar Council. It is also not clear whether the Bar Council has deliberated on this aspect of initiation of *suo motu* action against such unruly members of the Bar, who damage and stature and sanctity of the institution and also the members associated with the said institution.

10. Pausing here for a moment on this aspect, this Court, before proceeding further on this issue, would first of all turn its eyes to the issue on hand, viz., relating to the grant of anticipatory bail to the petitioners.

11. Learned counsel appearing for the petitioners submitted that in the heat of the moment, in order to safeguard the 2nd petitioner, who is the daughter of the 1st petitioner from the arm of the police, the 1st petitioner

had acted in haste and had spoken out words, which are definitely not intentional and not intended to malign the reputation of the police force. Equally, in the same stead, it is submitted that the act of the police with the 2nd petitioner, the acts which have not been spelt out or visually displayed, but nevertheless spoken to by the police officials at the scene, also acted as catalyst in the outburst of the 1st petitioner, which is neither wilful nor wanton and, therefore, pleads to the sympathy of this Court to enlarge both the petitioners on bail, more so taking into consideration the gender of the petitioners.

12. Learned Government Advocate (Crl. Side) countering the said submissions, submitted that the 1st petitioner belongs to the legal profession, as spoken to by her before the police officials and that the 2nd petitioner is also a 4th year law student and both being within the framework of the legal system, are duty bound to exhibit more caution while speaking out in the open in public view. However, with scant regard to their position and also the stature of the police officials and also the work being done by them during the calamitous situation, has spoken in a manner, unbecoming of a law officer of the Court and, therefore, this Court

should not adopt the same yardstick as is being adopted to the general public, but the yardstick fixed should be of such a nature that the stature of the members of the legal profession should stand elevated in the eyes of the general public, in that they should be placed as the role models of the society. It is further submitted on behalf of the respondents that the venom exhibited by the 1st petitioner against the police officials in full public view should not be brushed aside, as the intemperate and unparliamentary language used by the 1st petitioner using filthy, abusive and derogatory remarks against the police officials should not be treated lightly as the same will send a wrong signal to the society. The trial court, on proper appreciation of the materials placed by the prosecution, has rejected the relief sought for by the petitioners and this Court, to send a stern warning to such of those unruly elements who are acting as moles in the noble profession, who try to demean the other respectful and genuine members of the profession, by resorting to such unprofessional acts, and, therefore, this Court may not grant the relief sought for by the petitioners.

13. This Court paid its undivided attention to the submissions advanced by the learned counsel appearing on either side and also

perused the materials available on record and in particular to the recording of reasons adduced by the learned Principal Judge.

14. The sum and substance of the argument of the learned counsel for the petitioners is that the 1st petitioner, due to her motherly affinity towards her child, viz., the 2nd petitioner had behaved in such a manner, which should be looked at only through the eyes of the mother and not through the eyes of law, but much through the eyes of the society, in which the mother takes care of her child and in such a backdrop, the act committed by the 1st petitioner could have only a minimal impact, thereby giving the benefit to her for an affirmative order at the hands of this Court.

15. Though the argument of the learned counsel for the petitioner, as noticed above, at the outset, looks attractive on the face it and even tries to touch the conscience of this Court, however, on a much more deeper analysis of the materials available on record, the same reveals a very sorry state of affairs in which the 1st petitioner, using the garb of an advocate, has not only tried to strong arm the uniformed force, but is also

trying to take this Court for a ride by trying to shed crocodile tears for her acts, said to have been committed unwittingly by her.

16. A perusal of the records reveal that the police officials on duty had stopped the car of the 2nd petitioner and on enquiry, it was ascertained that the vehicle was plying without the necessary pass, as is required under the lockdown guidelines issued under the Disaster Management Act. When enquired about the reason for her travel, the 2nd petitioner had initially told the police authorities that she was on her way to buy fish, which later seemed to have been changed to medicines, on instructions, as is found in the order passed by the trial court. When it was pointed out that the reason the 2nd petitioner was out was not on account of any essential function and that she had violated the lockdown guidelines and when she was issued with a challan for paying fine for using the vehicle amidst the travel restrictions, the 2nd petitioner, had contacted the 1st petitioner, who came there in another four wheeler, whereinafter, the episode unfolded.

17. A cursory perusal of the detailed order rejecting the anticipatory bail pleas of the petitioners by the trial court reveal that not only the petitioners tried to change their stance as to the need for them being out, but, thereafter, the detailing of the incident by the trial court leaves a sour taste in the mouth of this Court on seeing the conduct of the 1st petitioner.

18. It is the version of the respondents that on the 1st petitioner arriving at the scene, she not only threw the challan, which was issued to the 2nd petitioner by the police authorities, on them, but, thereafter, had used abusive, derogatory, filthy and scathing words on the police officials in a high pitched voice, the details of which have been extracted in the body of the order by the trial court after viewing the CD produced by the respondents before the trial court. The words, which have been extracted in the order, are of the highest degree of abuse that could be thrown at the police officials, who have been maintaining the law and order of the State during the grave period when the pandemic is blowing the human race into smithereens. The words used by the police officials for the wrongful act committed by the petitioners, if not to the liking of the 1st petitioner, cannot pave the way for her to act in such a fashion, denigrating the dignity of the

legal profession before the eyes of the general public. It is to be pointed out that the police personnel have been one of the frontline workers in trying to curb the spread of the deadly virus by maintaining the lockdown guidelines imposed by the Government from time to time since March, 2020 and it is further to be pointed out that the pandemic is not yet over and caution has been given about the on-coming of the 3rd and 4th wave, which are predicted to have a still more detrimental impact on the human race. Such being the case, when persons without any rhyme or reason wander outside during the period of lockdown, it is just and necessary that the law enforcing agency is duty bound to act in a manner as is expected of them so that the ferocity of the virus is controlled to some extent. It is further to be pointed out that the police personnel have not only been working overtime, but also working with least concern of their family and themselves and have been dedicating their lives to the cause of humanity. In such a scenario, the least expected of the general public and also the intellectual group of legal professionals that they should be given the minimum basic respect and courtesy while handling them.

19. Though it is the contention of the learned counsel for the petitioners before the trial court that the abusive language used by the police personnel had provoked the 1st petitioner, which resulted in the 1st petitioner hurling abuses against the police personnel by using derogatory and filthy language, however, the said submission advanced on behalf of the petitioners is not substantiated by records, as is evident from the order of the trial court, which has been passed after viewing the CD recorded during the occurrence. Further, the recording made by the trial court in its order after viewing the CD reveals a very sorry state of affairs.

20. The order of the trial court reveals that on the 1st petitioner arriving at the scene, she used abusive, unparliamentary and derogatory words and went to the extent of threatening the police personnel that she will strip them of their uniforms. The words used by the 1st petitioner are not only filthy and abusive, but the said words would definitely hurt the ego, pride and self-respect of any person, be it a police official or a common man.

21. It is further to be pointed out that though the police authorities asked the 1st petitioner to wear the mask, which is a mandatory requirement under the lockdown guidelines issued under the Disaster Management Act, yet the 1st petitioner, not even showed scant respect to the words of the police officials, but made the 2nd petitioner to board her car, while she boarded in the other car in which she came and moved away from the scene after creating a scene. It is further to be pointed out that the whole occurrence happened in broad daylight in open public place. Thereafter, the video shot of the occurrence had gone viral in social media. If really the stand of the 1st petitioner that the police officials had misbehaved with the 2nd petitioner is true, the 2nd petitioner could have raised alarm, which would have attracted the attention of the public. However, no such stand has been taken by the petitioners either before the court below or before this Court. There is not even a shred of evidence or material placed by the petitioners to show that the misbehaviour of the police officials towards the 2nd petitioner was the reason for the outburst of the 1st petitioner.

22. In the backdrop of the above facts, as unfolded, the utterances of the 1st petitioner about her being an advocate assumes greater importance. It is to be pointed out even at the very outset that an advocate is also a citizen, as common as all the other persons. Only because of his avocation and his social minded acts, the advocates rise up the pedestal and in fact that is the reason the law has given them the stature to question even the police. But that stature should be used in a legal and lawful manner without maligning the reputation and position of any individual person or any official of the Government. It is further to be stressed that advocates are not above law and, in fact, it is the advocates who have to give more respect to the law, as it is their bread and butter. Usage of the position of advocate for other than just causes is nothing but an act of corrupt nature, which requires to be cut down by the sword held in the hands of the statue of Justice. The duty of an advocate is to see to it that the rule of law is followed irrespective of the damage that it would cause to his self. The doyens of the Bar, more especially the Madras Bar, have held aloft the rule of law for centuries together and Madras Bar is always looked upon with awe and admiration. But, nowadays, a few members, just to enrich themselves and for their selfish cause, throw to

the winds the larger interest of the legal fraternity and cause irreparable damage to the other members of the legal profession by their acts, as has been done in the present case.

23. The 1st petitioner, being a member of the coveted legal profession, ought to have kept the interest of the profession in mind when speaking out in public, as such acts of one or other member of the legal fraternity will leave an indelible scar on the whole legal fraternity and paint a gloomy picture in the minds of the general public. Further, it is to be pointed out that the 1st petitioner was indulging in such an act in front of her daughter, viz., the 2nd petitioner, who is said to be a 4th year law student. In such a backdrop, it is more expected of the 1st petitioner to teach the 2nd petitioner the ethics for following the rule of law, as otherwise, her act as in the present case, would engrave upon the mind of the 2nd petitioner, which would not be a welcome sign to the legal profession. Not only as a mother, but also as a senior to her daughter in the profession, the 1st petitioner ought to have conducted herself in a manner befitting the status of an advocate and her failure to do so, not only tarnished the image of the legal fraternity in the eyes of the general public but would also have a

lingering effect on the mind of the 2nd petitioner, who is to fill the shoes of her mother in the legal field in the days to come.

24. It is an accepted fact that women are embodiments of wealth, courage, wisdom, affection, patience and what not. But the act of the 1st petitioner in full public view demolishes the well accepted phenomenon about the virtue of patience of women, which has been equated to be even greater than sea by many of the poets and philosophers. The pressing into service of the argument that the 1st petitioner was trying to protect her daughter from the verbal attacks of the police authorities are mere figments of imagination which has flown from the legal minds that had worked on this case. The 2nd petitioner was not a child not knowing anything. The 2nd petitioner was a student of law, studying 4th year and she would be very well aware of her rights and as a law student, would very well be a courageous girl. She had been going alone driving the four wheeler when she was intercepted by the police and she even had the presence of mind to call her mother once she was issued with a challan for fine. Therefore, the web woven as if the 2nd petitioner had suffered ill-treatment at the hands of the police which led to the frontal attack by the

1st petitioner unmindful of the fact that the whole episode was being enacted in full public view shows the courage and cunningness of the 1st petitioner that her professional stature, which she had pushed to the forefront even at the start of the skirmish, would act as a shield to safeguard her from any type of act that she performs. If this Court allows such a mindset to go unnoticed, it would be a great injustice that this Court would be doing to the legal profession and also to the genuine, dignified and respectful legal professionals, who respect this profession and the robes they wear and would also be sending a wrong signal to the 2nd petitioner, who is slowly climbing up the ladder to enter the legal profession. This Court should not be a mute spectator to the legal gimmicks that is being performed for getting the 1st petitioner out of the jam in which she has entrapped herself.

25. It is further to be highlighted that law is the same, be it for the rich or the poor and the scales of justice should balance equally and should not tilt in favour of one or the other for considerations other than justice. In the case on hand, there are more than enough materials placed by the respondents to show case the act of the 1st petitioner, who had

conducted herself in bad light in front of the general public and had brought down the respect and regard the legal fraternity had before the public at large. Though it is argued that it is an isolated incident in which the 1st petitioner had committed such an act on account of sudden provocation due to the act of the police officials towards her daughter, but the same does not merit acceptance for the simple reason that this is not an isolated incident as projected, but a perusal of the order of the trial court reveals that the 1st petitioner had conducted herself in similar manner during the election check in which case also, she had projected herself as an advocate and immune to any checks that the police may conduct. The whole act of the 1st petitioner is not only demeaning the legal fraternity in bad light in front of the public, but it is a clear misuse of her position and professional privilege as an advocate to further her cause, which is impermissible. All the contentions put forth on behalf of the 1st petitioner are only invented out of thin straw merely for the purpose of extricating herself from the position which she has pushed herself into and this Court cannot take a lenient view to the benefit of the 1st petitioner as such an act by this Court would send a wrong signal to the whole society that the watchdog of the society, viz., the Judiciary, is falling into an

unenviable trap laid down by certain unscrupulous elements like the 1st petitioner to axe the whole legal fraternity and push them into oblivion. This Court cannot be a mute spectator to such an act and in the above backdrop of the facts and circumstances as elucidated above, this Court is of the considered opinion that showing any leniency to the 1st petitioner by acceding to her request would be nothing but cutting the very branch on which the Judiciary is sitting and would paint the Judiciary in very bad light in the eyes of the general public, who have been witnesses to one of the most bitter incidents and sowing in their minds a view that an advocate can extricate herself off from any circumstance and that Judiciary would only aid to their cause much to the detriment of the other members of the general public, including the uniformed force. For the above reasons, this Court is not inclined to show any leniency to the 1st petitioner and, accordingly, is not inclined to accede to the request of the 1st petitioner for grant of anticipatory bail.

26. Insofar as the 2nd petitioner is concerned, it could be safely concluded from the materials available on record that but for the initial part where she is alleged to have quarreled with the police officials and not

adhering to the lockdown guidelines and being out on the roads without the necessary official pass, she has not indulged in any other acts that would spoil the reputation of the student community as also the legal fraternity, she being a law student. The quarrel that the 2nd petitioner is alleged to have had with the police officials on the fateful day cannot be said to be a wrong doing, as it is the mindset of almost every individual, who is being stopped by the police, be it during the pandemic period or even during other times, to enter into quarrel and to justify their actions. Mere quarreling with the police officials cannot be said to be a wrongful act, which would attract the penal provisions pressed into service by the respondents against the 2nd petitioner and any view taken to the contrary would be negating the rights guaranteed to the citizens under the Constitution. This Court is also conscious of the fact that the 2nd petitioner being a student and a person of younger age, is to be guarded by this Court from the clutches of any criminal prosecution, lest the whole career of the 2nd petitioner would stand ruined. But for the 1st petitioner entering the arena on receiving the call from the 2nd petitioner and launching a verbal attack on the police authorities, such a deplorable situation would never have happened. The 2nd petitioner, as pointed out

above, being a student and of tender age, but being a student in law, also being aware of the intricacies relating to filing of an offence, though not grave in nature, had called upon the 1st petitioner and such an act cannot be clubbed with the act of the 1st petitioner to include the 2nd petitioner in the web of criminality and charge her under the penal provisions. This Court should also be mindful of the age and future of the 2nd petitioner and keeping the above in mind, this Court is of the considered view that the act of the 2nd petitioner definitely does not warrant attracting any of the offences with which she has been charged. However, it is to be pointed out that the present petition filed is only for anticipatory bail and not for the purpose of quashing the case registered against the 2nd petitioner and in view of the limited scope and jurisdiction available to this Court, this Court is of the considered opinion that the 2nd petitioner, for the reasonings aforesaid, is entitled to the relief of anticipatory bail. This Court also would like to point out that the initiation of proceedings against the 2nd petitioner for the offences above, are totally unwarranted and not necessitated and the law enforcing agency, while charging persons, should also keep in mind the future of the individual and not get carried away by emotions, by filing such cases. The law enforcing agency is manned by

persons, who have the experience in dealing with criminals and not each and every individual, who commit a mistake should be branded as a criminal by bringing the individual within the four corners of the penal code. The law enforcing agency should also bear in mind that the younger generations of today are the pillars of our country and they should be groomed in such a fashion that they realise their duties and responsibilities and come up as law abiding citizens. Unnecessary infliction of charges of this nature on every individual would only make the individual look into the loopholes of the system and try to wriggle out of the same after committing mistakes, which should be avoided at all costs. The law enforcing agency shall keep in mind the above while slapping cases henceforth against individuals. This Court, in the fitness of things, is of the considered view that the respondents shall ponder dropping of all the charges made against the 2nd petitioner, as this Court feels that there is no substance in the said charges.

27. Now coming to the query addressed by this Court to the 2nd respondent relating to the mechanism for dealing with erring advocates, for which status report has been filed and which has been analysed by this

Court in the earlier part of the order, it is to be pointed out that Bar Council, being the regulatory body, should be more proactive in today's scenario for maintaining its dignity and grandeur, which it has been enjoying for quite long by grooming individuals, who start the profession, into model citizens. As pointed out during the course of hearing, the only person who can raise their voice with the law enforcing agency is an advocate. Law has given the legal professional such a privilege and status, but the said privilege is to be used sparingly and only for upholding the majesty of law and following the rule of law. It is not given for the purpose of maligning the rule of law and demeaning the other members of the Bar to the benefit of the individual. Conscious effort should be made by one and all to act within the boundaries of law. This Court need not point out that lawyers know more about the law than even Judges and Judges, more often, get educated from the erudite arguments advanced by the lawyers. The flow of knowledge from the mind of the advocates should be for just cause. Advocates should not take law into their own hands on the premise that they are the custodian of law; on the contrary, the advocates being the custodian of law, are bound to act within the legal framework, even if there is violation of law and establish the rule of law through the well defined

mechanism. Any deviation from the said act would take away the said individual out of the legal fraternity and brand them otherwise, which would be scar on the legal profession as also the individual, who is practicing the profession.

28. It is to be pointed out that the preamble of the Bar Council of India rules postulates that "*An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an Advocate. Without prejudice to the generality of the foregoing obligation, an Advocate shall fearlessly uphold the interests of his client, and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit.*" Advocates, in addition to being professionals, are also officers of the courts and play a vital role in the administration of justice.

29. However, instances of advocates going beyond their brief and acting in a manner prejudicial to the interests of the large portion of the legal fraternity is on the increase. The Bar Council, as also the various Association of Advocates, cannot dispute the said fact that there are individuals, who are harming the interest of the legal professionals by indulging in acts, which are against the professional ethics and also against the oath of office of the advocates. This Court, being the custodian of the legal rights of the citizens, definitely has to impose itself upon the Bar Council so as to safeguard the reputation and dignity of the legal professionals, who practice the profession with utmost dedication and devotion. Any infraction by this Court in not safeguarding the interest of the legal profession would be a doom for the entire judiciary and the legal fraternity as a whole. Only with the said objective in mind, this Court, while passed the order on 15.6.21, had called upon the 2nd respondent to speak about the mechanism, which it has to deal with erring advocates, who bring disrepute to the profession.

30. The scalable height which a lawyer could reach is the pinnacle of attaining the post of Judgeship and the decorum and decency with a

dignified approach are the hallmarks that are required to be maintained by such of those persons in the legal field, which would not only enable them to scale such heights, but would also project the legal fraternity in proper light before the general public. The lawyers are the role models for the entire community as they are instruments with which the litigants redress their grievance and so long as the instruments are good, the results would also be good and deterioration in the instrument would only lead to deterioration in general health of the public.

31. Pursuant to the direction issued by this Court on 15.6.21, the 2nd respondent has placed before the Court the mechanism that is being followed in dealing with advocates, who indulge in unprofessional acts and other misconducts. It is evident from the said status report that the mechanism revolves around the provisions of the Advocates Act. It is the fair submission on behalf of the Bar that action is taken only on the complaint being received by the Bar Council against any erring advocate. However, what this Court is more bothered about is the fact that not all unprofessional conduct or other misconducts lead to a complaint being written by the Bar Council. However, in today's technological outburst,

visual media covers the nook and corner of the country and bring to the knowledge of the people the various activities that is happening round the clock. In this scenario, what bothers the conscience of this Court more is the acts committed by a few miscreants in the legal profession that come to the knowledge of the Bar Council for which no complaint emanates from any individual, but which tends to affect the whole of the legal profession. Every happening around the country is available today in the palm of the hands of each and every individual. Any unprofessional conduct of a member of the legal profession, coming to the knowledge of the Bar Council through the visual media for which no complaint emanates from any quarter, can the Bar Council allow that instance to go unnoticed for the mere reason that the Advocates Act does not envisage *suo motu* action. Introspection is the need of the hour for the legal profession to survive and have its deep rooted traditions intact.

32. This Court is in the present case only hearing a case relating to grant of anticipatory bail to the petitioners. But the incidents which have unfolded in the present case has made this Court to introspect on this aspect and though this Court cannot give any positive direction to the Bar

Council to do one thing or the other, as it is not vested with jurisdiction, but definitely, in the interest of the institution and also the legal fraternity, this Court, in the above backdrop, feels that it is high time the Bar Council enforces Section 35 of the Advocates Act, which gives it the power and authority to initiate action *suo motu* on the incidents, which comes to its knowledge through the digital/print media, for which there is no complaint given by any individual. If the Bar Council does not act with speed and vigour at this hour, this Court can only feel and fail and it would be no further. The power having been provided u/s 35 of the Advocates Act for initiating *suo motu* action, a duty is cast on the Bar Council to adhere to the said provision in letter and spirit and this Court hopes and trusts that the 2nd respondent will in all earnestness act in consonance with the provision by initiating action *suo motu* action against erring individuals, for unprofessional conduct or other misconducts, which come to its knowledge through the digital/print media so that the glory of the Bar is held aloft.

33. In view of the foregoing discussions made above, this Court is of the considered view that this petition deserves to be allowed only in

part granting anticipatory bail to the 2nd petitioner while dismissing the petitioner insofar as the 1st petitioner relating to grant of anticipatory bail. Accordingly, this petition insofar as the 1st petitioner stands dismissed.

34. The petition insofar as the 2nd petitioner is allowed and the 2nd petitioner is directed to be enlarged on bail on her surrendering before the respondent police within a period of 15 days from the date of receipt of a copy of this order and execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the respondent police.

35. In the backdrop of the above matter, one other issue, which was an off-shoot of the order dated 15.6.21 assumes significant importance, which relates to the administration of justice and, therefore, this Court feels it just and necessary to deal with the same in the present petition.

36. Pursuant to the interactions this Court had on 15.6.21, when the case was taken up for hearing which resulted in the issuance of certain directions to the 2nd respondents, after impleading the 2nd respondent, it has come to light that there was a furore over the orders passed that this

Court had termed all the lawyers as miscreants. The above scenario was an outcome of each and everyone of the agitated mind not reading the order, but interpreting the words of this Court one way or the other. But more than the furore over the order, there was a stand alone matter, which was brought to my notice, which has necessitated this Court to deal with the same.

37. The said issue relates to a Whatsapp audio circulated by one Mr.R.Krishnamurthi, a member of the Bar and according to his version supposed to be practicing in the Hon'ble Supreme Court. **It is not out of context to point out that the said advocate has also appeared in the video conference when the matter was argued before the trial court.** The audio proceeds on the footing that I have taken a stand, which denigrates and defames the entirety of the advocates. In fact, the said person had gone on to say that the way I had conducted the Court was unbecoming of a Judge and that I have not given opportunity to put forth the submissions by the parties. In fact, when the matter was placed before me, in view of the gravity of the act alleged by the prosecution against the petitioners herein, most especially in the trying times, I had impleaded the Bar Council

of Tamil Nadu to spell out the mechanism devised by them in consonance with the various decisions of the Hon'ble Supreme Court of India for **taking action against such of those advocates**, who conduct themselves in an unruly fashion, thereby, denigrating and defaming the legal profession.

38. Though the order passed by me was only to the limited extent of impleading the Bar Council of Tamil Nadu and calling for a status report, however, the above advocate had circulated the audio on the social networking platforms attributing mala fides to me. The advocate has further stated that I should recuse from hearing the case any further and has also attributed dishonesty and also stated that I am taking a lopsided view in favour of the law enforcing agency. Though I have called only for certain particulars, the advocate has gone on to make allegations that I have taken a biased view and I am leaning towards the law enforcing agency and has even casted aspersions against me openly in the social networking domain.

39. In fact, the advocate has gone on to impute allegations against the Judiciary in failing to take any action against the law enforcing agency

for very many irregularities committed by them during the pandemic situation, which are not in consonance with law. **The act of the advocate is very much contumacious and attracts initiation of criminal contempt proceedings.** The whole audio paints a very gloomy picture and without any material aspersions are attributed against me. Neither have I passed any orders on the merits of the case, nor have I in any way defamed the advocates or the legal profession, yet, the advocate has gone on to state that I had not heard the arguments of the counsel and that I was in a predetermined mindset to decide the matter, which is nothing by imputing aspersions against me, though the said advocate was neither the counsel on record for the petitioner nor in any way connected with the said case.

40. Further, it would be just and necessary to place on record the fact recorded by the trial court in its order dated 10.06.2021. The material portion of the said order of the trial court, as is found in para-4 of the above order, is quoted hereunder :-

"4. During the course of such submission, the senior counsel Mr.Krishnamoorthy and Mr.D.Selvam, Member of Bar Association also joined in the Video Conference and made representations individually as if they are representing the petitioners in addition to the counsel on

record and submitted that the petitioners have paid the fine.

....."

41. From the above fact recorded by the court below, it is implicitly clear that the abovesaid Krishnamoorthy, who had appeared in the video conference and placed submissions on behalf of the petitioners, though was not the counsel on record there as well, had, in an effort to prejudice the legal community and with a view to interfere in the administration of justice, has castigated me by circulating the above audio in Whatsapp. Moreover, it is to be pointed out that the advocate had identified himself in the audio. The whole audio would speak volumes against the said advocate and his ulterior motive in castigating a Judge for discharging his judicial functions. Further, I am also state that if at all anyone has a grievance, it would only be the advocate on record, who appeared for the petitioner and in that case, it was open to the said counsel to agitate the matter in a manner known to law. The said Krishnamoorthy was a total stranger to the proceedings, yet he has made derogatory statements in the social media against my judicial functions, including seeking my recusal, which is nothing but interference with the administration of justice. If such an act is not nipped in the bud, it will send a wrong signal to the other

persons to make scathing aspersions against the other Hon'ble Judges, which would impede the discharge of the judicial functions.

42. In this regard, it is relevant to browse through Section 2 (c) of the Contempt of Courts Act, which defines "criminal contempt" and for better appreciation, the same is quoted hereunder :-

"2.

(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which -

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any Court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;"

43. On a careful reading of the provisions of Section 2 (c) of the Contempt of Courts Act, the necessary inference that follows is that the aforesaid advocate, Mr.R.Krishnamoorthy, had made scandalous comments, which has lowered the authority of the court and had also

interfered and prejudiced the court proceedings and also obstructed and interfered with the administration of justice. The act of the aforesaid advocate, Mr.Krishnamoorthy, attracts, in toto, the whole of Section 2 (c) and for such an act, this Court is of the considered view that the advocate Mr.R.Krishnamoorthy should be proceeded with for criminal contempt as provided u/s 2 (c) of the Contempt of Courts Act. If the said act of the advocate is left to go unnoticed, it would send a very wrong signal to the entire general public that Courts would be very circumspect in dealing with issues which concern their own brethren. This Court would not fall prey to such acts perpetrated by gossip mongers and unscrupulous elements, with a view to scuttle the judicial process and make the judiciary dance to their tunes.

44. The Hon'ble Supreme Court in the case of *R. Muthukrishnan – Vs - High Court of Madras, (2019 (16) SCC 407)* held as under :-

"82. It has been seen from time to time that various attacks have been made on the judicial system. It has become very common to the members of the Bar to go to the press/media to criticise the Judges in person and to commit sheer contempt by attributing political colours to the judgments. It is nothing less than an act of contempt of

gravest form. Whenever any political matter comes to the Court and is decided, either way, political insinuations are attributed by unscrupulous persons/advocates. Such acts are nothing, but an act of denigrating the judiciary itself and destroys the faith of the common man which he reposes in the judicial system. In case of genuine grievance against any Judge, the appropriate process is to lodge a complaint to the higher authorities concerned who can take care of the situation and it is impermissible to malign the system itself by attributing political motives and by making false allegations against the judicial system and its functionaries. Judges who are attacked are not supposed to go to press or media to ventilate their point of view."

(Emphasis Supplied)

45. In the above stated scenario, if this Court fails to take any action against the said individual, Mr. R.Krishnamoorthy, it would have a cascading effect of eroding the faith that the general public have on the justice delivery system and also push the judicial system into doldrums. In such a backdrop, this Court is of the opinion that this is a fit case where this Court has to initiate criminal contempt as provided u/s 14 of the Contempt of Courts Act.

46. Accordingly, the Registry is directed to issue notice regarding initiation of *Suo Motu Criminal Contempt proceedings* against the said Mr.R.Krishnamoorthy as provided for u/s 14 of the Contempt of Courts Act and, thereafter, place the matter before the Hon'ble Chief Justice for being listed before the appropriate Bench for hearing.

47. In the result, the following orders are passed in this criminal original petition:-

- i) This criminal original petition, insofar as the 1st petitioner is concerned is dismissed for the reasons aforesaid;*
- ii) Insofar as the 2nd petitioner is concerned, this criminal original petition is allowed and the petitioner is directed to be enlarged on bail on her surrendering before the respondent police within a period of 15 days from the date of receipt of a copy of this order and execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the respondent police;*
- iii) The 2nd respondent, in consultation with the Bar Council of India, in the larger interest of the legal fraternity, shall look into the issue of evolving a mechanism for initiation of suo motu proceedings against such of those members, who indulge in activities, which are prejudicial and demeaning the interest of the legal fraternity as a whole;*

iv) Registry is directed to initiate suo motu criminal contempt proceedings against Mr.R.Krishnamoorthy, Advocate, Supreme Court of India, No.214, New Lawyers Chambers, M.C.Setalwad Block, Supreme Court of India Campus, New Delhi 110 001, by issuing statutory notice;

v) After issuing statutory notice to the said Mr.R.Krishnamoorthy, Registry is directed to place the matter before the Hon'ble The Chief Justice for listing the suo motu criminal contempt before the appropriate Bench.

18.06.2021

Index : Yes

Internet : Yes

GLN

To

1. The Public Prosecutor
High Court, Madras.
2. The Inspector of Police
G-7, Chetpet Police Station
Chennai 600 031.
3. Bar Council of Tamil Nadu
Chennai.
4. Bar Council of India
New Delhi.

M.DHANDAPANI, J.

GLN

**DELIVERY ORDER IN
OF 2021**

**PRE-
CRL. O.P. NO.10387**

Pronounced on

18.06.2021