

**BEFORE THE SPECIAL COMMITTEE OF THE BAR COUNCIL OF
TAMIL NADU AND PUDUCHERRY**

PRESENT

Mr. Vijay Narayan, Advocate General, Chairman

Mr. R. Singaravelan, Senior Advocate, Member

Mr. N. Chandrasekharan, Member

Dated the 16th Day of August 2018

PROCEEDINGS

1. A complaint was given by the PSO of the Hon'ble Judge of Madras High Court dated 4.8.2018 that two advocates, namely, Mrs.L.Shika Sarmadan and Mr.S.Sahul Hameed, intercepted the car of the Hon'ble Judge of the Madras High Court and shouted at the driver of the Judge's car on 30.07.18 at 9.40 Am and even on 3.8.18 at the residence of the house at 9.15 a.m. in the presence of the Hon'ble Judge. On receipt of such complaint, an attempt was made to contact the advocates on the cell phone number given by them in the verification form submitted by them recently, but the advocates could not be contacted.

2. As the complaint given by the PSO to the Hon'ble Judge was of serious nature, the Bar Council had no other option except to pass an interim order of suspension by framing charges against them in public interest by an order dated 6.8.18.

3. The same was given widespread publicity by the advocates by way of WhatsApp messages attacking and supporting the action of the Bar Council of Tamilnadu and Puducherry. In fact ,one of the members of the Bar invited all the advocates to unite together and fight for the suspended advocates without even ascertaining the truth and seriousness of the complaint. Some of the Advocates welcomed the action of the Bar Council for taking action against the advocates as they felt that it was a serious misconduct.

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4. It is to be noted that the above said advocates ,uninfluenced by any of the comments made for and against them ,had straight away gone to the Chamber of the Hon'ble Judge at Madurai, realising their mistake, and tendered and unconditional apology and further gave an undertaking that they would not resort to any such misconduct in future.

5. The Hon'ble Judge by taking note of their age and whole hearted realization of their mistake magnanimously accepted the same.

6. As the complaint was given to the Special Committee of the Bar Council of Tamilnadu and Puducherry and action was taken by the Special Committee on the basis of the complaint, they also approached the Special Committee of the Bar Council of Tamilnadu and Puducherry and submitted their letter of unconditional apology with an undertaking to the Bar Council of Tamilnadu and Puducherry.

7. Accordingly they submitted a detailed affidavit along with the letter of undertaking tendering unconditional apology and undertaking not to resort to any misconduct in future. Both the documents were placed before the Special Committee for appropriate orders and they appeared before all the Special Committee Members on 14.8.18.

8. On taking note of the entire facts and circumstances of the case, particularly the affidavit of undertaking and apology filed by the above mentioned advocates with the letter, the Special Committee decided to drop further action on the complaint given by the PSO of the Hon'ble Judge.

9. Accordingly, further action is dropped on the Notification No.9/18 dated 13.8.18 and the suspension order issued with the Specific Charges is withdrawn with immediate effect.

10. The letter of undertaking and the affidavit tendering unconditional apology are directed to be placed on record.

11. We would have stopped our order with this had not both the Bar Council and the two advocates been subjected to criticism before even ascertaining the facts leading to the incident warranting immediate interference of the Bar Council of Tamilnadu and Puducherry. We are conscious of the reality that the persons discharging the public duties are always subject to criticism and that such criticism should not deter them from discharge of their duties.

12. We are constrained to quote few passages of the recent decisions rendered by the Hon'ble Apex Court with a fond hope that the readers will definitely realize and avoid at least in future, the adverse impact of their criticism on the affected parties facing action from the public bodies, which in this case had not happened as the respondents uninfluenced by any comments for and against them have taken a right decision which was magnanimously accepted by the Hon'ble Judge and consequently by this Committee.

13. In Umesh Kumar-vs- State of Andhra Pradesh reported in (2013) 10 SCC 591 at page 604 para 18, the Honorable apex court has reminded all of us about the reputation of the human being in the following words:

“..... Reputation is a sort of right to enjoy the good opinion of others and it is a personal right and an enquiry to reputation is a personal injury. Thus, the scandal and defamation are injurious to reputation. Reputation has been defined in dictionary as ‘to have a good name; the credit, honour or character which is derived from a favourable public opinion or esteem and character by report’. personal rights of a human being include the right of reputation. A good reputation is an element of personal security and is protected by the Constitution

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equally with the right to the enjoyment of life, liberty and property. Therefore ,it has been held to be a necessary element in regard to right to life of a citizen under Article 21 of the Constitution. The international Covenant on Civil and Political Rights , 1966 recognizes the right to have opinions and the right to freedom of expression under Article 19 is subject to the right of reputation of others. Reputation is “not only a salt of life but the purest treasure and the most precious perfume of life”(Vide Kiran Bedi -vs- Committee of Inquiry in (1989) 1 SCC 494, Port of Bombay -vs Dilip Kumar Raghavendranath Natkarni (1983) 1 SCC 124, Nilgiris Bar Association -vs T.K. Mahalingam, (1998) 1 SCC 550, Mehmood Nayyar Azam -vs- State of Chhattisgarh, (2012) 8 SCC 1, Vishwanath Agrawal -vs- Sarla Vishwanath Agrawal (2012) 7 SCC 288 and Kishore Samrite -vs- State of Uttar Pradesh (2013) 2 SCC 398.”

14. Again in another case in Om Prakash Chautala -vs- Kanwar Bhan and others, reported in AIR 2014 SC 1220 the Honorable Apex court in the beginning of the judgment at first para has observed as follows:-

“ Reputation is fundamentally a glorious amalgam and unification of virtues which makes a man feel proud of is ancestry and satisfies him to bequeath it as a part of inheritance on the posterity. It is a nobility in itself for which a conscientious man would never barter it with all the Tea of China or for that matter all the pearls of the sea. The said virtue has both the horizontal and vertical qualities. Win reputation is hurt A man is half Dead. It is an honour which deserves to be equally preserved by the downtrodden and the privileged. The aroma of reputation is an excellent, which cannot be allowed to be sullied with the passage of time. The

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memory of nobility no one would like to lose; none would conceive of it being a atrophied. It is dear to life and on some occasions it is dearer than life. And that is why it has become an inseparable facet of article 21 of the Constitution. No one would like to have his reputation dented. One would like to perceive it as an honour rather than popularity. When a court deals with a matter that has something likely to affect a person's reputation the normative principles of law are to be cautiously and carefully adhered to. The advertence has to be sans emotion and sans popularize perception and absolutely in accord with the doctrine of audi alteram partem before anything adverse said."

15. The heartfelt words of the Honorable Chief Justice of India in the above case should always be kept in mind by a lawyer who always is professionally in a position to deal with the reputation of others. While they have a right to criticize a decision, they should not harm the reputation of the decision maker.

16. In this context it is relevant to quote, certain passages from the recent judgments of the Honorable Apex Court in K.S.Puttaswamy -vs- Union of India reported in (2017) 10 SCC P.1. particularly the passages from Paras 623, and 646:-

"623.An individual has a right to protect his reputation from being unfairly harmed and such protection of reputation needs to exist not only against falsehood but also certain truths. It cannot be said that a more accurate judgment about people can be facilitated by knowing private details about their lives- people judge as badly, they judge us in haste, they judge out of context, they judge without hearing the whole story and they judge with hypocrisy. Privacy lets people protect themselves from these troublesome judgments....."

Further observation made at para 646 of the Judgment also is more relevant to be quoted for the present situation and hence it is quoted below:-

“646..... If the individual permits someone to enter the house it does not mean that others can enter the house. The only check and balance is that it should not harm the other individual or affect his or her rights. This applies both to the physical form and to technology. In an era where there are wide , varied, social and cultural norms and more so in a country like ours which prides itself on its diversity , privacy is one of the most important rights to be protected both against State and Non State Actors and be recognized as a fundamental right. How it thereafter works out in its inter- play with other fundamental rights and when such restrictions would become necessary would depend on the factual matrix of each case. That it may give rise to more litigation can hardly be the reason not to recognize this important, natural, primordial right as a fundamental right.....”

18. While quoting the above passages of the law laid down by the Hon’ble Apex Court we repeat that the persons discharging public duties may very often be subjected to criticism and should not be carried away by bad or good comments of others. At the same time , one has to visualize the adverse impact of the same on the affected parties .

19. We are happy that everything ended smoothly because of the magnanimous and immediate response of the Hon’ble Judge, as well as the realization of the mistake committed by the respondents though belated but heart felt.

In the result, the matter stands closed once for all.

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**(VIJAY NARAYAN)
ADVOCATE GENERAL
CHAIRMAN.**

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**(R. SINGARAVELAN)
SENIOR ADVOCATE
MEMBER.**

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**(N. CHANDRASEKHARAN)
MEMBER.**