

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 5319 of 2023

Petitioner(s).

Versus

1. The Jharkhand State Bar Council, Ranchi.
2. Bar Council of India, 19, New Delhi.
- 3.

Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : M/s. Sheo Kr. Singh & R.N. Chatterjee, Advocates.
For the Bar Council : Ms. Neha Bhardwaj, Advocate.
For Respondent No. 3 : Mr. Rajesh Kumar, Advocate.
For the Bar Council : Mr. R. Krishna, Chairman.

.....

06/17.01.2024: Heard the learned counsel for the parties.

2. Learned counsel for the Bar Council prays for some time.
3. The prayer for adjournment made by the learned counsel for the Bar Council is rejected, mainly on the ground that the Bar Council has initiated an disciplinary enquiry in respect of a complaint made by respondent No. 3 against the petitioner, who is a practicing lawyer. The role of the Bar Council is limited. They should act as a neutral body and they cannot take side of any of the parties. Thus, they need not be heard on the merit of the case. The Bar council can only make submission if their jurisdiction is challenged.
4. By filing this petition, the petitioner, who is a practicing lawyer at Palamau at Daltonganj, has challenged the initiation and continuation of disciplinary enquiry being D.C. Enquiry No. 3/2023, initiated against the petitioner by Jharkhand State Bar Council vide notice dated 26.8.2023.
5. Counsel for the petitioner submits that admittedly the petitioner is a lawyer and he was conducting matrimonial cases and other cases representing the wife of respondent No. 3 against the respondent No. 3. Only to wreak vengeance and to preempt the petitioner from defending the wife of respondent No. 3, against the respondent No. 3, in several court proceedings, this frivolous complaint has been filed. He submits that the Bar Council on frivolous allegation and the allegation, which is not at all connected with the professional conduct of the petitioner, has entertained the same and has initiated a Disciplinary proceeding against the petitioner. He lastly submits that from the allegation levelled, even if on the face value the same is taken to be true, anyone who would be aggrieved, is the wife of the respondent No. 3 i.e. the client of this petitioner, but surprisingly, she has not made any complaint against the lawyer.

Thus, he prays that this petition be allowed.

6. Mr. Rajesh Kumar, learned counsel for the complainant, submits that from the complaint itself, which has been filed as per Chapter-II, Part VI, Rule-V of the Bar Council Rules and as per the complaint, there is serious misconduct committed by the petitioner, which requires initiation of a Disciplinary Proceeding. It is his contention that at the very initial stage, the proceeding cannot be strangled rather the petitioner should appear before the Disciplinary Committee and make submissions on his behalf and only after if any adverse order is passed, this Court gets jurisdiction to entertain any application under Article 226 of the Constitution. It is his contention that this application, filed under Article 226 of the Constitution of India challenging the notice and initiation of the Disciplinary Enquiry is premature.

7. The learned Chairman, Jharkhand State Bar Council submits that they have jurisdiction to entertain the complaint.

8. After hearing the parties, I am not entering into the question of jurisdiction of the Bar Council. Even for the sake of arguments, if it is held that the Jharkhand State Bar Council has jurisdiction to entertain the complaint, then also on the face of it, I find that there is merit for entertaining and allowing the writ petition.

9. Admittedly, the petitioner is an Advocate. Admittedly, a long standing matrimonial dispute is going on between respondent No. 3 and his wife- Priti Devi. Two cases of matrimonial disputes are pending before the trial courts; a divorce case and a proceeding under Section 125 Cr.P.C. Admittedly, the petitioner is the lawyer representing ***** before the Civil Courts. On this background, the present complaint has been lodged by respondent No. 3 before the Jharkhand State Bar Council praying therein to initiate a disciplinary proceeding against the petitioner on the ground that he has professionally misconducted himself.

10. The complaint has been brought on record which is at Annexure-1 to this writ petition. In the said complaint, the complainant has admitted that after his marriage with *****, a matrimonial dispute cropped up between them and she left his house. The petitioner is a lawyer representing *****. It is alleged that this petitioner and ***** has developed illicit relationship between them and they have indulged in physical relationship. Further, it is alleged that the petitioner is trying to extort money from the complainant. It is further alleged that ***** had also threatened the complainant to the effect that with assistance

3.

of this petitioner i.e. the lawyer. He further alleges that he has given rupees ten lakhs to ***** to save life of children and also reported the matter before the Daltonganj Police Station, for which Daltonganj (Town) P.S. Case No. 123 of 2022 has been registered and chargesheet has been submitted thereafter cognizance has been taken.

11. From the complaint, it is quite clear that the relationship between the complainant and ***** is admittedly bitter and there are Court cases amongst them. On this ground, the complainant has approached the Jharkhand State Bar Council alleging immoral act of this petitioner along with the wife- *****, along with allegation that ***** is extorting money with help of the petitioner.

12. Admittedly, both ***** and petitioner are major and the allegation of physical relationship has been levelled by the husband, who is not having good term with the wife. Surprisingly, the wife has not filed any complaint. If there was any sexual act or any misconduct committed by the petitioner-Advocate upon *****, ***** would have been the only person who could have lodged a complaint. In this case, it is the husband, who is adversary of ***** has lodged the complaint. There is no professional relationship between the respondent No. 3 (complainant) and this petitioner, rather it is with the ***** who has never lodged any complaint or nor shown any displeasure against this petitioner before any authority, about any conduct, be it professional or other.

13. So far as one criminal case, which was initiated against Vikash Kumar Dubey i.e. the petitioner herein, by respondent No. 3 being Complaint Case No. 299 of 2022, it is also admitted that that the summoning order dated 11.11.2022 has been quashed by a Co-ordinate Bench of this Court by exercising jurisdiction Section 482 Cr.P.C in Cr.M.P. No. 48099 of 2022. The said case was filed by respondent No. 3 against this petitioner i.e. the Advocate, alleging that respondent No. 3 is being harassed by this Advocate both mentally and physically and he has committed robbery of valuable documents pertaining to land, educational certificate and Bank deposits of respondent No. 3

In the aforesaid order, the learned Co-ordinate Bench of this Court has held that the continuation of criminal proceeding against this petitioner is gross abuse of the process of the Court.

14. Considering the totality of the matter, I find that this complaint before the Jharkhand State Bar Council has been filed by respondent No. 3 with *mala fide*, with an intention to wreak vengeance, that too against a professional lawyer, who was defending his client i.e. the wife of the complainant. Further

4.

respondent No. 3 has got no locus to lodge the complaint before Jharkhand State Bar Council, when there is no professional relationship between the petitioner and the complainant. This sort of behaviour of respondent No. 3 is absolutely deprecated.

15. Considering the aforesaid facts, this writ petition is allowed. Consequently, Notice Ref. No. 1688 of 2023 dated 26.8.2023 in D.C. Enquiry No. 3/2023 is quashed. The complaint dated 5.9.2022, filed by respondent No. 3 along with entire proceeding started by the Disciplinary Committee, Jharkhand State Bar Council against the petitioner is also quashed.

Anu/-CP2

(ANANDA SEN, J.)