

WMP.Nos.7906 & 7907/2021 in WP.No.16181/2020

M.SATHYANARAYANAN., J.  
and  
A.A.NAKKIRAN, J.

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

1. **WMP.No.7906/2021** is filed by the petitioner to implead [1]the National Commission for Scheduled Castes rep.by its Secretary, 5<sup>th</sup> Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110 003 and [2] the Tamil Nadu State Human Rights Commission, rep.by its Registrar, 143, P.S.Kumarasamy Raja Salai [Greenways Road], Raja Annamalai Puram, Chennai 600 028, as party respondents 11 and 12 in the present writ petition and **WMP.No.7907/2021** is filed seeking the relief of interim injunction, restraining the Courts, Tribunals, Commissions and Authorities including the newly impleaded respondents, viz., respondents 11 and 12, from taking cognizance of any request that may be made by the 9<sup>th</sup> respondent, except with the leave of this Court.
2. Heard the submissions of Mr.S.Prabakaran, learned Senior counsel assisted by Mr.C.K.Chandrasekaran, learned counsel appearing for the petitioner/Bar

Council of Tamil Nadu and Puducherry and also perused the affidavits filed in support of the above miscellaneous petitions as well as the common typed set of documents dated 19.03.2021.

3. The learned Senior counsel appearing for the petitioner has drawn the attention of this Court paragraphs No.33, 38, 39 40, 43, 44, 45, 46 of the order authored by the Hon'ble Chief Justice of India Mr.Justice J.S.KHEKAR and paragraphs No.57, 60, 61, 75 and 76 of the order authored by the Hon'ble Mr. Justice CHELAMESWAR in the decision reported in **2017 [7] SCC 1 [In Re Hon'ble Shri Justice C.S.KARNAN]** and would submit that despite stringent observations and directions issued in the above cited judgment, the 9<sup>th</sup> respondent continue to indulge in tirades in the form of unparliamentary, abusive and vituperative language against the former Chief Justices, former Judges of the Hon'ble Supreme Court of India as well as against the former Judges and sitting Judges of this Court.
4. The abusive contents released in the form of vidoes uploaded in the social media platforms, viz., YouTube, Instagram etc., forced the Statutory Body, viz., the Bar Council of Tamil Nadu and Puducherry, to lodge series of

complaints and upon taking cognizance of the same, ten cases have been registered so far and the 9<sup>th</sup> respondent was arrested and remanded to judicial custody on 08.12.2020 and in Crime No.321 of 2020, registered by the Inspector of Police, Central Crime Branch, Chennai, for the alleged commission of the offences u/s.228, 509, 294[B] and 506[ii] of IPC and under Section 67[A] of the Information Technology Act as well as in other cases and the petitions for bail filed by him in CrI.OP.Nos.1153, 1761, 1783, 2177, 2178, 2180, 2181, 2182, 2183 and 2184 of 2021, came to be dismissed vide common order dated 16.02.2021 and thereafter, the 9<sup>th</sup> respondent once again filed applications/petitions for bail in CrI.OP.Nos.4090, 4077, 4087, 4080, 4078, 4088, 4079, 4081, 4089 and 4085/2021 and the Investigating Agency has filed a Common Objection dated 09.03.2021.

5. The learned Senior counsel appearing for the petitioner has drawn the attention of this Court to paragraph No.43 of the Common Objections and would submit that the 9<sup>th</sup> respondent sent a complaint dated 26.02.2021 to the III Metropolitan Magistrate, George Town, Chennai, which was received on 06.03.2021, alleging that the Police Officers had abused him by his caste

name, which attracts the provisions of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989, and therefore, prayed for taking cognizance of the said offence against the investigating officers and further alleged human right violation and also named each and every one of the police officials who form part of the Investigating Team and who investigated the cases filed against the 9<sup>th</sup> respondent. The Investigating Agency, in the Common Objections, took a stand that the said act on the part of the 9<sup>th</sup> respondent is nothing but coercion and threat to the officers and not to comply with the statutory obligations fastened upon them and despite the undertaking given by him, he continues to indulge in said kind of illegal activities and therefore, strongly opposed the grant of bail to the 9<sup>th</sup> respondent.

6. In sum and substance, it is the submission of the learned Senior counsel that the 9<sup>th</sup> respondent, by misusing and abusing his caste status, is threatening and intimidating the officers who form part of the investigating team, not to discharge their official duties and despite the undertaking given by in the first set of applications for bail, he continues to indulge in such kind of activities and as such, prays for impleadment of the National Commission for

Scheduled Caste and Scheduled Tribe, New Delhi and the Tamil Nadu State Human Rights Commission and also prayed for an order of restraint, restraining the Courts, Tribunals, Commissions or Authorities including the respondents to be impleaded, from taking cognizance of any request that may be made by the 9<sup>th</sup> respondent, except with the leave of this Court.

7. Mrs.P.Kritika Kamal, learned Government Advocate [Crl.Side] appearing for respondents 3 to 5 has drawn the attention of this Court to the Common Objections filed by the Investigating Agency to the petitions for bail in Crl.OP.No.4090/2021 batch etc., and would submit that the investigation is being carried out in a fair and transparent manner and strictly in accordance with law and in order to intimidate and prevent the officers who form part of the investigation team, from discharging their lawful duty, false complaints have been lodged by the 9<sup>th</sup> respondent alleging that the said officials have abused him by using his caste name and that they also indulged in activities of stealing valuables from his home when the search was made and prays for appropriate orders, to protect the officers, so as to enable them to continue with the investigation.



8. This Court paid its anxious consideration and best attention to the arguments advanced by the learned Senior counsel appearing for the petitioner / Bar Council of Tamil Nadu and Puducherry and the learned Government Advocate [Crl.Side] appearing for respondents 3 to 5.
9. The 9<sup>th</sup> respondent, on an earlier occasion was punished by the Hon'ble Supreme Court of India to undergo imprisonment for a period of six months vide judgment dated 09.05.2017 made in Suo Motu Contempt Petition [C] No.1 of 2017. The said judgment was rendered by the Coram consisting of 7 Hon'ble Judges of the Apex Court, reported in **2017 [7] SCC 1** and the said judgment is to be read as part and parcel of this order.
10. The Hon'ble Supreme Court of India, in paragraph No.33 of the order, has taken note of the complaint dated 15.03.2017 submitted by the 9<sup>th</sup> respondent to the Director, Central Bureau of Investigation, New Delhi, where he has alleged among other things that *".....Further, the Hon'ble Judges have wantonly, deliberately and with mala fide intention insulted me at a public institution which amounts to harassment towards a Dalit Judge. As such all the 7 Hon'ble Judges have been squarely covered under the Scheduled*

*Castes and Scheduled Tribes [Prevention of Atrocities] Act."* The Hon'ble Supreme Court of India had taken into consideration, series of orders purported to have been passed by the 9<sup>th</sup> respondent and has passed an order dated 01.05.2017 which was extracted in paragraph No.39 of the said decision and it is relevant to quote the same: ***"...In order to ensure that no Court, Tribunal, Commission or Authority takes cognizance of the orders passed by Shri Justice C.S.Karnan, we hereby refrain all Courts, Tribunals, Commissions or authorities, from taking cognizance of any orders passed by Shri Justice C.S.Karnan after initiation of the proceedings by us on 08.02.2017."***

11. In paragraph No.40 of the said decision, the Hon'ble Supreme Court of India has also taken note of the fact that the interview given by the 9<sup>th</sup> respondent herein to the media and the orders passed by him were extremely disparaging and further taken note of the fact that by an order dated 13.04.2017, the 9<sup>th</sup> respondent has ordered registration of the case under the provisions of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989, against all the 7 members of the Bench as well as other orders passed by him

and has ultimately found that none of the allegations levelled by the 9<sup>th</sup> respondent herein were supported by any material and his allegations were malicious, defamatory and pointedly by name, against many of the Judges concerned..

12.It is relevant to extract paragraph No.46 of the above cited judgment:-

*"46.None of the allegations levelled by Justice Karnan were supported by any material. His allegations were malicious and defamatory and pointedly by name, against many of the Judges concerned. He carried his insinuations to the public at large, in the first instance, by endorsing his letters carefully so as to widely circulate the contents of his communications, to the desire circles. Some of his letters were intentionally endorsed, amongst others, to the President of the Tamil Nadu Advocate Association. And later, through the internet, he placed his point of view, and the entire material, in the public domain. During the course of hearing of the instant contempt petition, his ridicule of the Supreme Court remained unabated. In fact, it was heightened as never before. In this process, he even stayed orders passed by this Court. One of the orders passed by him, restrained the Judges on*



*this Bench, from leaving the Country. By another order he convicted the Judges on this Bench, besides another Judge of this Court, and sentenced them to 5 years' imprisonment, besides imposing individual costs on the convicted Judges. In the background of the factual position summarised above, while disposing of the suo motu contempt petition on 09.05.2017, we had directed that no further statements issued by Shri Justice C.S.Karnan would be publicised. The instant restraint order, however, does not prevent or hinder any public debate on the matter, academic or otherwise. We have not restricted the media in any manner other than to the limited extent expressed above. We hope and expect that a meaningful debate would lead to a wholesome understanding of the issue, from all possible perspectives."*

- 13.The Hon'ble Mr. Justice J.CHELAMESWAR, in the concurring verdict, has taken note of the fact of the act on the part of the 9<sup>th</sup> respondent, in lodging the complaint to the National Commission for Scheduled Castes and Scheduled Tribes and in paragraph No.61, observed that **"He [9<sup>th</sup> respondent herein] believed that the initiation of contempt proceedings by this Court**

*against him would constitute an offence under the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 as the contemnor belongs to one of those communities falling within the sweep of the protective umbrella of that enactment. He not only believed so, but also purported to pass certain orders ostensibly in exercise of the authority vested him by virtue of his appointment as a Judge of a High Court to initiate various actions against members of this Bench, the details of which are given in paras 30 to 35. In substance, [i]he accused the members of this Bench guilty of prejudice against him , [ii]"he declared" that the initiation of contempt proceedings against him is mala fide judicial action apart from constituting an offence under the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989."*

14.It is deduced from the submissions made and the materials placed that the 9<sup>th</sup> respondent, once again started indulging in the very same act, which has been frowned by the Hon'ble Apex Court in the above cited decision, by making allegations against the members of the Investigation team that they have abused him by using his caste name, which attracts the provisions of the

above cited Act and apart from that, the 9<sup>th</sup> respondent also submitted a petition dated 26.02.2021 which was received by the Court of III Metropolitan Magistrate, George Town, Chennai, on 06.03.2021, alleging that the members of the investigation team had also indulged in acts of theft etc. In the considered opinion of the Court, the above said acts of the 9<sup>th</sup> respondent *prima facie* amount to intimidation and it is one of the attempts made by him to prevent the officers of the investigation team from discharging their duties properly and in accordance with law.

15. Now coming to the powers of the National Commission for Scheduled Castes and Scheduled Tribes, it is relevant to quote the judgment rendered by the Apex Court reported in **2018 [1] SCALE 187 [Ishwar Pratap Singh and Others V. The State of Uttar Pradesh and Another]**. The appellants therein were prosecuted for the commission of the offences u/s.323, 504, 506 of IPC and under the directions of the National Commission for Scheduled Castes and Scheduled Tribes, a Supplementary Charge Sheet was filed charging them for the commission of the offence u/s.3[1][x] of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989. The accused have

filed a petition for quashment of the said portion of the charge sheet and it was declined by the High Court and therefore, the Special Leave Petition was preferred and on admission, it was converted as a Criminal Appeal. It is relevant to extract paragraph No.7 of the said judgment:-

*"7.We do not think that any detailed discussion is warranted on the well-settled proposition that no external agency can dictate the course of investigation in a criminal case. It is within the exclusive jurisdiction of the police [see R.Sarala V. T.S.Velu and Others] [2000] 4 SCC 459]]. The Court also cannot supervise the investigation. However, in exceptional situations, Superior Courts may monitor an investigation. But that is not the same as supervision. No doubt, superior officers of police may exercise their powers under Section 36 Cr.PC. In supervising the investigation. In the instant case, it appears that the direction was issued on the basis of a complaint filed by Respondent No.2 before the Commission. It is not clear as to whether the Commission had conducted any inquiry before issuing direction to the police. At any rate, it is submitted that the appellants have not been involved in any such inquiry. Equally, it is*

*not clear whether the second respondent had made out a case for the intervention of the Commission under the Rules of Procedure of National Commission for Scheduled Castes....."*

- 16.The Hon'ble Supreme Court of India, after going through the contents of the Supplementary Charge Sheet, found that the ingredients u/s.3[1][x] of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 have not been made out and in paragraph No.8 observed as follows:-

*"8.....Under Rule 7.5.2(vi), the Commission is empowered to conduct an inquiry to "whether proper charge sheet has been filed mentioning the relevant sections of IPC together with the PCR Act, 1955 and SCs and STs [POA] Act, 1989 in Court". This is not a power to dictate the course of the investigation. The Commission is competent to point out any lapses or laches in the investigation. The Commission could only have brought to notice of the police the need for a proper or further investigation and it was for the Police to take a call."*

- 17.In *Prathvi Raj Chauhan Vs. Union of India and others* reported in 2020 [4] CTC 906 : 2020 [4] SCC 727, the scope of Sections 18 and 18A of the



Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989, vis-a-viz., Section 438 of the Code of Criminal Procedure, came up for consideration. In paragraphs No.10 and 11, it is observed as follows:-

*"10. Section 18-A[i] was inserted owing to the decision of this Court in **Subhash Kashinath [2018 [6] SCC 454]**, which made it necessary to obtain the approval of the appointment authority concerning a public servant and the SSP in the case of arrest of accused persons. This Court has also recalled that directions on Review Petition [Crl.] No.228 of 2018 decided on 01.10.2019. Thus, the provisions which have been made in Section 18-A are rendered of academic use as they were enacted to take care of mandate issued in **Subhash Kashinath** which no more prevails. The provisions were already in Section 18 of the Act with respect to anticipatory bail.*

*11. Concerning the applicability of provisions of Section 438 Cr.PC., it shall not apply to the cases under the 1989 Act. However, if the complaint does not make out a prima facie case for applicability of the provisions of the 1989 Act, the bar created by Sections 18 and 18-A[i] shall not apply. We have clarified this aspect while*

*deciding the review petitions."*

18. The above cited judgment has been considered by the Hon'ble Supreme Court of India in the decision reported in **2020 [12] SCALE 714 [Hitesh Verma V. The State of Uttarkhand and Another]** and the said decision pertains to quashment of the First Information Report registered for the commission of the offence u/s.3[1][x] of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989, and in paragraphs No.13, observed as follows:

*"13.....All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has*

*a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is member of Scheduled Caste."*

19. In the decision reported in 2020 [1] LW 280 [**Dr.S.Ariharan Vs. The Inspector of Police, Thirumangalam Town Police Station, Thirumangalam, Madurai District and Another**], a Single Bench of this Court has considered the plea of anticipatory bail filed by the petitioner therein apprehending arrest for the alleged commission of the offences under the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989. The learned Judge, having found that the defacto complainant had acted in a false and mala fide manner and other facts and circumstances of the case, by also taking into consideration, the decisions rendered by the Apex Court, had granted anticipatory bail.

20. This Court, on a thorough and careful consideration of the avements made in

the petition with supporting materials and on appreciation of the arguments advanced by the learned Senior counsel appearing for the petitioner and the learned Government Advocate [Crl.Side] appearing for respondents 3 to 5 and further taking into consideration, the decisions rendered by the Apex Court, reported in **2017 [7] SCC 1 [Constitution Bench]**, is of the considered view that the presence of the National Commission for Scheduled Castes and Scheduled Tribes, New Delhi-110003 as well as the Tamil Nadu State Human Rights Commission, Chennai-28, is absolutely necessary and essential for proper and effective adjudication of the said issue.

21. Accordingly, **WMP.No.7906 of 2021 in WP.No.16181 of 2020 is ORDERED** and [1]the National Commission for Scheduled Castes rep.by its Secretary, 5<sup>th</sup> Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110 003 and [2] the Tamil Nadu State Human Rights Commission, rep.by its Registrar, 143, P.S.Kumarasamy Raja Salai [Greenways Road], Raja Annamalai Puram, Chennai 600 028, are impleaded as respondents No.11 and 12 in WP.No.16181/2020.

22.Notices to the newly impleaded respondents, through Court as well as

privately returnable by 22.04.2021.

**WMP.No.7907/2021 in WP.No.16181/2020:-**

23.In the light of the observations and findings made in the above cited decision reported in 2017 [7] SCC 1 [cited supra], the 9<sup>th</sup> respondent *prima facie* appears to have indulged in the acts of intimidation and threat by using the caste name and therefore, making attempts to prevent the officials of the Investigation team to investigate the cases registered against him in a fair and proper manner and in accordance with law. This Court has also taken note of paragraph No.43 of the Common Objections filed by the prosecution in Crl.OP.No.4090/2021 batch etc.

24.Thus, a *prima facie* case has been made out for grant of interim injunction ; otherwise on account of the said threat and intimidation being wielded out, the officers of the Investigation Team could be under constant threat of fear and in that event, they may not be able to carry out the investigation in a fair



and proper manner. The balance of convenience as on date, lies in favour of the petitioner.

25.Hence, there shall be an order of **ad-interim injunction** restraining the respondents 11 and 12, viz., the National Commission for Scheduled Castes and Scheduled Tribes, New Delhi and the Tamil Nadu State Human Rights Commission, from taking cognizance of the representation/complaint given or to be given by the 9<sup>th</sup> respondent and his associates against respondents 3 to 5, defacto complainant as well as against the Presiding Officers who are dealing with the cases and the officials who are dealing with the matters **until further orders.**

26.Call on **22.04.2021 at 2.15 p.m., through physical hearing.**

[MSNJ] [AANJ]

19.03.2021

[1/2]

AP

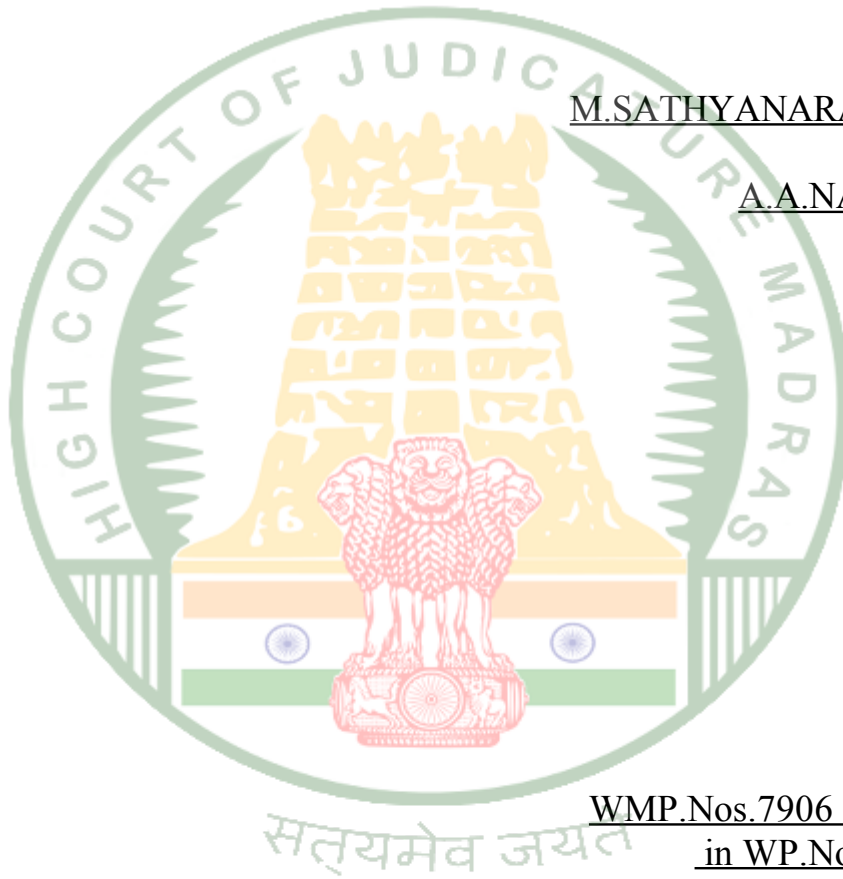
Internet : Yes

**NOTE:-** Communicate the above order to all the official respondents including

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the newly impleaded respondents, viz.,[1]The Secretary, National Commission for SC/ST, 5<sup>th</sup> Floor Lok Nayak Bhawan, Khan Market, New Delhi-110 003 and [2]The Registrar, Tamil Nadu State Human Rights Commission, 143, P.S.Kumarasamy Raja Salai, Raja Annamalai Puram, Chennai 600 028.



M.SATHYANARAYANAN., J.

and

A.A.NAKKIRAN, J.

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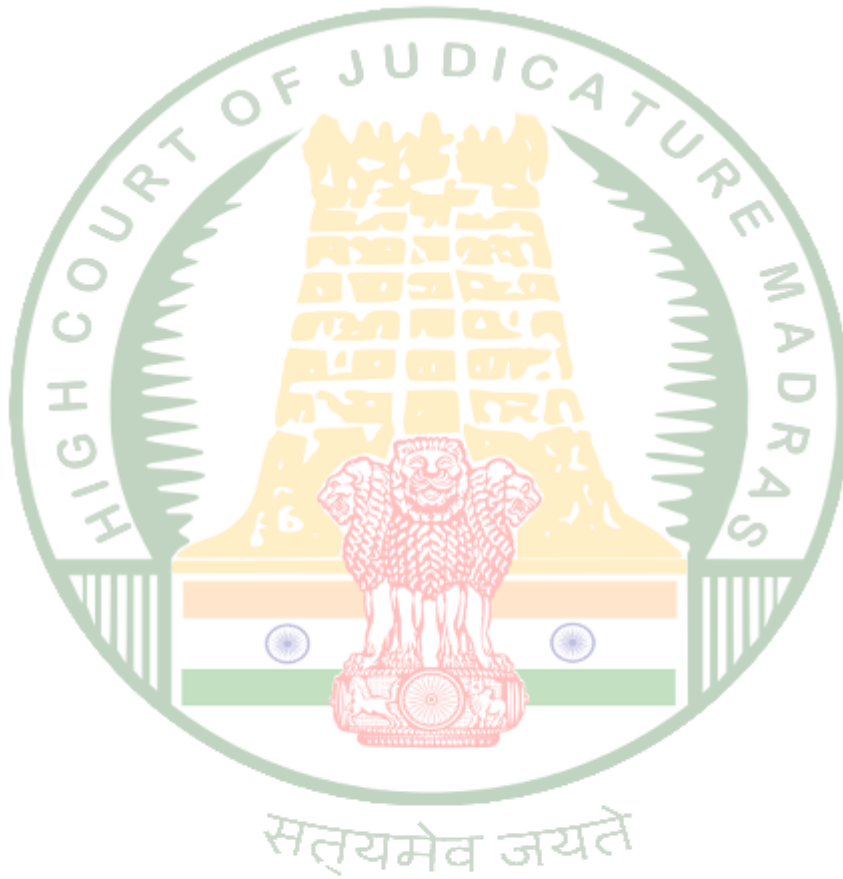
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