



2025:DHC:3269



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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**Judgment pronounced on : 15.04.2025**+ **W.P.(C) 4425/2025**

CHAND MEHRA

.....Petitioner

Through: Petitioner-in-person.

versus

UNION OF INDIA &amp; ORS.

.....Respondents

Through: Mr. Bhagwan Swaroop Shukla,  
CGSC alongwith Mr. Kamaldeep, GP  
for UoI.Mr. Preet Pal Singh and Ms.  
Tanupreet Kaur, Advocates for BCI.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

*The matter is taken up today as 14.04.2025 was declared a holiday on account of birthday of Dr. B.R. Ambedkar.*

1. The present petition assails the order dated 11.11.2024 passed by the Bar Council of India (hereinafter '*the impugned order*') whereby a revision petition filed by the petitioner against an order dated 06.10.2023 passed by the Bar Council of Delhi was dismissed.
2. The impugned order came to be passed in the background of a complaint dated 19.04.2023 bearing Complaint No. 109/2023 filed by the petitioner against respondent nos. 3-5 before the Bar Council of Delhi (BCD) alleging professional misconduct on the part of the said respondents who are lawyers engaged by the petitioner's adversary/opposite party in respect of certain legal proceedings initiated against the petitioner including proceedings under Section 138 of the Negotiable Instruments Act and a civil



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suit for recovery of monies (hereinafter '*the legal proceedings in question*').

3. It is the contention of the petitioner, who appears in person, that the aforesaid proceedings were instituted against the petitioner on completely false and specious grounds without any due diligence being conducted by the respondent nos. 3-5. He submits that on this account, action should be taken against the said respondents for filing and prosecuting the said cases without conducting adequate due diligence.

4. He further submits that despite the correct factual position being apprised to the petitioner's adversary/opposite party and his lawyers (respondent nos. 3-5) in the legal proceedings in question, respondent nos. 3-5 persisted in pursuing false and frivolous litigation against the petitioner.

5. The petitioner also alleges that the respondent nos. 3-5 harassed him by making unreasonable demands/seeking to coerce the petitioner into settling the matter.

6. On this basis, a complaint dated 19.04.2023 came to be filed by the petitioner against the respondent nos. 3-5 before the Bar Council of Delhi seeking that an enquiry be conducted against the respondent nos. 3-5 and that they be held accountable for misconduct. *Vide* order dated 06.10.2023 issued by the Secretary, Bar Council of Delhi, the said complaint was dismissed. The said order, *inter alia*, reads as under:-

*"The council has gone through the entire complaint and the documents attached. Firstly, there is no professional relationship between the complainant and the respondents and the respondents are advocates of the opposite party. The allegation that the respondent advocates should have ascertained the facts with due diligence and should have filed the facts only after verification, cannot be considered, because an advocate has to believe on the facts provided by the client and it is not the duty of the advocate to verify those facts. If those facts are incorrect or false, they can be proved in the court of*



*law as the matter of the complaint is pending before the court and proper evidence may be adduced in the court to prove that the facts ascertained by the complainant are false and incorrect. It is for the court to decide the same. Therefore, at this stage, there is no misconduct made out against the respondents, hence the complaint is dismissed.”*

7. Aggrieved by the said order, a revision petition dated 13.12.2023 bearing Revision Petition no. 27/2024 came to be filed by the petitioner before the Bar Council of India (BCI) under Rule 48A of the Bar Council of India Rules. During the course of the said revision petition, the contentions of the petitioner have been elaborately considered by respondent no.2 / Bar Council of India and thereafter, an order dated 11.11.2024 has been passed, rejecting the said revision petition. The said order passed by the BCI gives the following reasons for rejection of the revision petition filed by the petitioner and, *inter alia*, reads as under:-

*“10. We have heard the parties concerned at length and we have perused the materials placed by them on record in the light of the submissions made.*

*11. The short issue that arises for our consideration is that, whether the complaint lodged by the Petitioner makes out a prima facie case for professional misconduct or other misconduct against the Respondent Advocates?*

*12. The Petitioner herein has raised a peculiar allegation against the Respondent Advocates that they have not done due diligence of their client's case and has filed a false claim with a knowledge that their client's case was false. To deal with the allegations it would be relevant to see the background in which these allegations have arisen. The Petitioner herein was tried for an offence under Section 138 Of NI Act based on the complaint filed by the Respondent Advocates' client and further civil suits have been instituted. The Respondent Advocates appeared on behalf of the Petitioner's opposite party in the 138 NI Act proceedings and the civil suits. The 138 proceeding was instituted for a default cheque amount of Rs.17.00 Lakhs and Rs.3.00 Lakhs respectively and civil suits for*



*recovery of the said money. The Petitioner here had taken a defence before the Hon'ble Court for NI Act that at the time of issuing the alleged cheque he was not in India, but in USA. The 138 NI Act proceedings were contested by both the parties and the Petitioner was acquitted by the concerned Hon'ble Court on 17-01-2013. Subsequent to the acquittal, the Petitioner had preferred a complaint before the State Bar Council of Delhi that the Respondent Advocates despite the knowledge of the fact that their client's claim was false has represented their clients in 138 NI Act proceedings and also filed an appeal against the acquittal of the Petitioner.*

*13. The allegations in the complaint have been set out in this order elsewhere. The contention of the Petitioner that an advocate must have conducted due diligence before accepting a brief and that a false claim was fought on behalf of their client has to be analysed in the anvil of the term "misconduct".*

*14. The State Bar council and as well as the Bar Council of India is empowered to initiate disciplinary action against an advocate for professional misconduct and other misconduct. The term "Misconduct", does not have a narrow interpretation and the same has to be construed and interpreted based on the facts and circumstances of the case. Section 35 of the Advocates Act empowers the State Bar Council to entertain a complaint, if the State Bar Council has reasons to believe that an advocate on its role has been guilty of professional misconduct or other misconducts. It is the mandate of law, that the State Bar Council before referring a complaint for disciplinary proceedings to a disciplinary committee must prima facie record reasons to believe that a professional misconduct or other misconduct is made out in the complaint and for recording such reasons, the State Bar Council has to analyse the complaint along with its materials and the defence of the delinquent Advocate.*

*15. It is the duty of the State Bar Council to analyse the complaint to see whether professional misconduct is made out or not and if a case for misconduct is made out, the matter would be referred for disciplinary proceedings and on contra, if there is no prima facie case, the complaint would be dismissed at the threshold. This process cannot be disputed and the contentions of the petitioner that a complaint cannot be dismissed by the General Council of the State Bar Council without referring to the disciplinary committee is wrong and the same is devoid of merits.*



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16. Now the issue that has to be considered by this Committee is whether the complaint lodged by the Petitioner makes out a prima facie case for professional misconduct as the Petitioner has alleged professional misconduct against the Respondent Advocates.

17. To attract professional misconduct there should be a professional relationship between the Petitioner and the Respondent advocates, this is pre-condition for attracting professional misconduct as there must be a jural relation. It is the admitted case of the Petitioner that the Respondent Advocates are the Advocates of his opposite party in the 138 NI Act proceedings. This particular admitted fact would reveal that there is no professional relationship between the Petitioner and the Respondent Advocates. Therefore, when there is no professional relationship between the parties i.e. the Petitioner and the Respondent Advocates, there cannot be a case for professional misconduct, moreover, the Petitioner herein is the opposite party to the client of the Respondent Advocates and the Respondent advocates have appeared in the 138 NI Act proceedings, where the petitioner was opposite party, therefore, in that context, a complaint for professional misconduct cannot be entertained against the Respondent Advocates, when there is no professional relationship between the parties.

18. The Petitioner has raised several contentions that the Respondent Advocates has a fiduciary duty to do due diligence of the documents provided by their clients as to ascertain whether the claim raised by their client as to ascertain whether the claim raised by their client was false and if the same is found to be false, then the Respondent advocates should not have appeared on behalf of their client but in the present case, the Respondent advocates despite the knowledge that their client's claim was false had appeared on behalf of their client and represented their client before the Hon'ble Court of law. It was contended that this act of the Respondent Advocates would amount to professional misconduct and dereliction of duty.

19. We feel the aforesaid contentions of the Petitioner is misconceived for a simple reason that it is the duty of the lawyer to plead for his client on the basis available information provided by their client. A lawyer as a fiduciary duty towards his client to substantially represent his client's case before the Hon'ble Court. The Bar Council of India's rule under Part-VI, Section-II, has contemplated several regulations to be followed by a lawyer as a



*duty to his client. The contemplated rules lay a duty on the lawyer to protect the interest of his clients at all situations and more specifically rule 19 prescribes that an advocate should not act on any other person's instructions other than his clients. This being the rule position, it is the duty of the lawyer, to plead on the instruction of his client and an advocate cannot sit and make an investigation on his client's case before representing it in the court. The duty of the advocate is to analyse the case and give proper opinion to his client and represent his client. That being the duty of an advocate, an advocate cannot be prosecuted for the offence of professional misconduct or other misconduct on the context that his client's case was not proved in the court and that the Advocate was aware that his client's case was false, if such complaints are permitted to be entertained, it would raise a dangerous trend, where the opposite parties would raise professional misconduct complaints against advocates representing the other side, when a finding is rendered by the Court or to chuck out the lawyer of the opposite party from the proceeding.*

*20. It is pertinent to mention, that the Respondent Advocates brought to the notice of this committee that subsequent to the dismissal of the 138 NI Act proceedings, the Petitioner herein had preferred a private complaint for perjury under section 340 Cr.P.C. against the Respondent Advocates and their client in CT Case No.30273 Of 2016 and the same is pending.*

*21. In the said 340 proceedings, the Respondent Advocates has preferred a discharge petition which is also pending for consideration. That being the scenario, the present complaint cannot be entertained, as it is for the concerned Hon'ble Court to initiate appropriate proceedings if a finding is rendered that there is a case for perjury. In any event, at this juncture, it would be too premature for the State Bar Council to initiate disciplinary proceedings against the Respondent Advocates for a case of professional misconduct on account of perjury. We feel even prosecuting an advocate for perjury for their client's error cannot be a permissible act, however, we are not commenting on the same as the matter is subjudiced before the concerned Hon'ble Court.*

*22. One of the main contentions of the Petitioner was that the Respondent Advocates had colluded with their client to extort money from the Petitioner and in several instances had spoken to the Petitioner for an out of court settlement. We are afraid to entertain*



*the said allegation as there no materials placed by the Petitioner to substantiate the said allegation. We are also well aware that a contention could be raised by the Petitioner that for forming a prima facie case there is no requirement of any material evidence, however, such contentions cannot be appreciated as to form a prima facie opinion, the materials must be considered, however, only the genuinity and the admissibility of the materials cannot be tested. In the present case, there is not even a single material produced by the Petitioner to substantiate the aforesaid allegation, therefore, the aforesaid allegation of the petitioner cannot be entertained. The other allegations of the Petitioner that the 3d Respondent has harassed the Petitioner at the time of cross examination would also fall foul on the same ground.*

*23. At this juncture, it would be apposite to refer the judgement of Hon'ble High Court of Madras in the case of "R.Swaminathan -Vs- Bar Council of Tamil Nadu (2014 SCC OnlineMad 12777), where in the said case the Hon'ble High Court had an occasion to deal with a question as to whether a complaint of professional misconduct can be entertained against an advocate without a jural relationship with the complainant, the relevant portion of the order is as follows:-*

*“6. At the outset, it should be pointed out that the second respondent, who was the complainant before the Bar Council, was not the client of the writ petitioners. Even according to his complaint, he was only one of the several shareholders of a Company, whose property was purchased by another Company, on the basis of the legal opinion tendered by the writ petitioners. In other words, the petitioners were not the complainant's Lawyers. The petitioners and the second respondent never had any jural or contractual relationship of lawyers and litigant. Therefore, I do not know how the second respondent could make a complaint of professional misconduct of giving a wrong opinion against the petitioners herein, when the clients of the petitioners were satisfied with such an opinion and have not raised an issue so far. This is an aspect which the Bar Council appears to have completely overlooked before passing a Resolution to refer the matter to the Disciplinary Committee.”*

*24. The Petitioner herein, has heavily relied on the judgement of Hon'ble Delhi High Court in the case of "H.S. Bedi -Vs- NHAI (cited supra)", in the said case the Hon'ble Delhi High Court dealt with an*



*issue of proceedings initiated under Section 209 of IPC for malting false claim before the Hon'ble Court. In that context, the Hon'ble High Court of Delhi had rendered an observation that the duty of the lawyer not to make a false claim on behalf of his client after coming to know that his client's claim is false and contrary to law. In the present case, the Petitioner has not been able to establish that the Respondent advocates had initial knowledge about the client's claim and moreover the Petitioner had preferred a perjury proceedings and the same is pending and that being the scenario, it would be premature to render a finding that the case of the respondent advocates client was false and it would also not be appropriate to entertain a complaint at this juncture that the case of the respondent advocates was false and that the Respondent advocates were of the knowledge that his client's claim was false.*

*25. It was further brought to our notice by the Respondent Advocates that a suit was preferred by the Respondent advocates' client in C.S.No.58867 of 2016 for recovery of Rs.17.00 Lakhs with interest which was the disputed amount in the 138 NI Act proceedings, the said suit was decreed against the Petitioner and a direction was issued for payment of Rs.17.00 Lakhs together with an interest at 9% per annum, this particular fact raises a doubt in the mind of this committee that the complaint by itself could be filed by the petitioner to overcome these pending litigations.*

*26. It is necessary to note that from ascertaining the facts it is clear that the Respondent advocates has been contesting their client's case against this petitioner for past 21 years and suddenly filing a complaint for professional misconduct against the respondent advocates raises a serious doubt in the mind of this committee that there could be a malafide intention in lodging the complaint.*

*27. It is also necessary to note that the complaint itself is preferred after a period of 10 years, where the order in 138 NI Act proceeding was passed in the year 2013 and the complaint of professional misconduct was lodged in the year 2023 for the said 138 NI Act proceeding and its consequent appeal, that being the scenario we feel that the complaint would also be hit by the principle of delay and laches.*

*28. A specific contention has been raised by the petitioner that the Respondent advocates have violated rule 4 of Bar Council of India Rules. The Rule 4 is reiterated hereunder:-*



*"4. An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the Advocate himself ought not to do. An Advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouthpiece of the client, and shall exercise his own judgement in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court."*

*29. We are afraid to accept the contention of the petitioner that rule 4 has been violated by the Respondent Advocates, for a reason that rule 4 restricts an advocate not to be a mere mouth piece of the client to the extent of presenting the client's case before the Hon'ble Court, that does not mean that the advocate has to do due diligence on the genuinity of his client's case before representing it. It is further necessary to note that Section 126 of the Indian Evidence Act, provides and protects the professional communication that happens between the client and his pleader, that being the situation it cannot be expected that a lawyer has to go against his client to say that his client's case was false and for such reasons, there cannot be a case for professional misconduct.*

*30. Hence, for the aforesaid reasons this committee is of a considered view that there is no case of professional misconduct against the Respondent Advocates and moreover, the allegations of other misconduct are not raised in the complaint and the same does not require any adjudication as the legal profession is not shown in any bad light by the respondent advocates. Before we draw the curtains, we feel that permitting a third party or for the say, the opposite party against whom an advocate contest a case to lodge a professional misconduct complaint when the advocate's client loses the case, this can be a dangerous issue as it would render the whole process of disciplinary proceedings as a revenge seeking mechanism and it would open a pandora box where every opposite party will be lodging complaints against the advocates of the other side and it will lead the legal profession to degradation.*

*31. In the light of aforesaid observations, we are not inclined to entertain the present Revision Petition and the impugned order passed by the State Bar Council is well reasoned and does not*



*require any interference. Accordingly, the Revision Petition No.27 of 2024 stands dismissed. No orders as to costs.”*

8. This Court is in agreement with the reasoning contained in the aforesaid impugned order passed by the BCI. As noticed, the advocates of the petitioner’s adversary owe no fiduciary duty to the petitioner, nor is there any professional relationship between them. As such, the allegations made by the petitioner do not fall within the purview of ‘professional misconduct’ as contemplated under Section 35 of the Advocates Act, 1961.

9. In terms of Section 35 of the Advocates Act, 1961, an advocate is required to represent the interests of the client by whom they have been engaged. In this regard, it has been held in ***Rohtas Singh v. Commissioner, Agra Division and Others*** 1996 SCC OnLine All 679 as under –

*“21. Further, under Section 35 of the Advocates Act, advocates have to maintain the high standards of noble and honourable profession to represent interest of only one party before the Court and to ensure that they do not represent conflicting interest before the Court. The advocates are also the officers of the Court and the purity of the administration of justice not only depends upon the integrity of the Judges but also on the honesty of the Bar as well. Thus, the high standards of the profession demand that once he is engaged by the State to represent the interest of State before the High Court by virtue of high standards he is professionally bound to represent the interest of State alone and not of its adversary so long he continues to be engaged for the State.”*

10. Further, as stated in the impugned order, the lawyer has a fiduciary duty to represent its client before the concerned Court based on instructions received by said lawyer. No lawyer can be faulted for acting on the basis of instructions as may be given by his/her client.

11. In fact, the relevant rules as referred to in the aforesaid order in Para 19, fasten a duty on a lawyer to protect the interest of its client to the extent



possible. That being the position, it is the duty of a lawyer to act on the instructions of his/her client and pursue the case based on the instructions received to the best of his/her ability.

12. It is also apposite in this regard to refer to a judgment of the Madras High Court in **R. Swaminathan v. Bar Council of Tamil Nadu High Court Campus Chennai** 2014 SCC OnLine Mad 12777, which has also been relied upon in the impugned order, and wherein it has been held as under -

*“6. At the outset, it should be pointed out that the second respondent, who was the complainant before the Bar Council, was not the client of the writ petitioners. Even according to his complaint, he was only one of the several shareholders of a Company, whose property was purchased by another Company, on the basis of the legal opinion tendered by the writ petitioners. In other words, the petitioners were not the complainant's Lawyers. The petitioners and the second respondent never had any jural or contractual relationship of lawyers and litigant. Therefore, I do not know how the second respondent could make a complaint of professional misconduct of giving a wrong opinion against the petitioners herein, when the clients of the petitioners were satisfied with such an opinion and have not raised an issue so far. This is an aspect which the Bar Council appears to have completely overlooked before passing a Resolution to refer the matter to the Disciplinary Committee.*

*7. As and when a complaint is made against any Advocate, by a litigant alleging professional misconduct, the Bar Council is obliged to consider at least, prima facie, whether the allegations constitute a professional or other misconduct. Sections 35 of the Advocates Act, 1961, enables the Bar Council to inquire into (i) complaints of professional misconduct and (ii) complaints of other misconduct. In the case on hand, the second respondent has not alleged against the petitioners, any “other misconduct”. He has alleged professional misconduct against the petitioners. But he did not have any relationship with the petitioners.*

*8. The expression “misconduct” is not defined in the Act. Therefore, the Supreme Court held in R.D. Saxena v. Balram Prasad Sharma [2001-1-L.W. 284 : (2000) 7 SCC 264] that the word “misconduct” is a relative term and that it had to be considered with reference to the subject matter and the context in which it appears.*



9. It is true that in *R.D. Saxena*, as well as in *D.P. Chadha v. Triyugi Narain Mishra* [(2001) 2 SCC 221], the Supreme Court held the expression “misconduct” to have a wide connotation. It need not necessarily involve moral turpitude. But it has to be understood with reference to the subject matter and the context in which it is employed.

10. In *Noratanmal Chouraria v. M.R. Murli* [2005-2-L.W. 772 : (2004) 5 SCC 689], an Advocate was a party litigant in a Rent Control Proceeding. The opposite party made a complaint to the Bar Council that as a party appearing in the Rent Control Proceedings, the Advocate entered into an altercation with him. The Bar Council refused to entertain the complaint, as the conduct complained of, was not against any act of omission or commission by the Advocate in his professional capacity. The opposite party appealed. The Supreme Court dismissed the appeal, pointing out that to constitute misconduct, there must be improper behaviour or intentional wrong doing or deliberate violation of a rule or a standard of behaviour.

**11. As pointed out earlier, the second respondent herein did not engage the services of the petitioners, for rendering any professional assistance. On the contrary, the petitioners were engaged by persons against whom the second respondent herein is actually waging a war over a property. Therefore, if any action is initiated against the petitioners, on a complaint made by a person like the second respondent, against whose interests the petitioners are engaged as advocates, no advocate can carry out his professional duties and responsibilities without fear. A professional is obliged to render services to his client. The services rendered by an Advocate to his client, would naturally invite the displeasure and wrath of such client's opposite party. Therefore, if parties to a litigation are allowed to take up the battle to the door steps of the counsel for the opposite party, the profession itself will be in jeopardy.”**

(emphasis supplied)

13. One other aspect highlighted by the petitioner is that during the course of legal proceedings, some perjury/fabrication of documents was also committed. It transpires that with regard to the allegations of perjury/fabrication, proceedings under Section 340 Cr.P.C have already been initiated by the petitioner and are still pending. Necessarily, in the said



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proceedings, the concerned Court will take a view as to whether any perjury/fabrication was committed or not by the respondent nos. 3-5.

14. In the present proceedings, it would be both premature and inappropriate to proceed on the basis that the perjury/fabrication was in fact committed by respondent nos. 3-5 and to castigate them for the same. This aspect has also been duly dealt with in the impugned order passed by the Bar Council of India.

15. In the circumstances, this Court finds no merit in the present petition and the same is accordingly dismissed.

**APRIL 15, 2025/at, dn**

**SACHIN DATTA, J**