
(1922) 01 AHC CK 0062
In the Allahabad High Court

In Re: M. Tasadduq Ahmad Khan Sherwani, Advocate

Date of Decision : 23-01-1922

Acts Referred:

Penal Code, 1860 (IPC) — Section 153A

Citation : AIR 1922 All 140 : 65 Ind. Cas. 560

Hon'ble Judges : Grimwood Mears, C.J;Rafique, J;P.C. Banerji, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. Tasadduq Ahmad Khan Sherwani has appeared before us to-day to show cause why he, being an Advocate of this Court, should not be suspended or struck off the Rolls. On the 1st of July 1921 he made a speech at Chara. That matter was investigated by the Magistrate, who, on the 18th of July 1921, convicted Mr. Sherwani u/s 153A of the Indian Penal Code and sentenced him to imprisonment. The evidence, as presented to the Magistrate, satisfied him that an offence had been committed. Mr. Sherwani, who has been called to the Bar in England and is an Advocate of this Court, did not, when before the Magistrate, make any defence. He put in a written statement, but he did not Criticize the witnesses or analyse the speech on which the prosecution was mainly based. He commenced to-day to do both. We pointed out to him that the case in the Magistrate's Court could not be re-opened in these proceedings and we referred to the decision of the Privy Council Rajendra Nath Mukerji In the matter of 22 A. 49 : 3 C.W.N. 736 : 1 B L.R. 708 : 26 I.A. 242 : 7 S P.C.J. 556 : 9 Ind. Dec. 1064 (P.C.). In that case there had been an inclination in this very Court to permit the Vakil's Counsel to go behind the conviction in order that it might be shown that he had committed no offence in law. When this matter was argued in the Privy Council they said definitely that there could be no argument to show that the conviction was, in the circumstances, improper. Mr. Sherwani, therefore, comes before us to-day as a man convicted of an offence in which he promoted or attempted to promote feelings of enmity or hatred between different classes of His Majesty's subjects. He has told us that in his view an offence under that section involves no element of moral turpitude. We disagree very strongly with this view. We

think that moral turpitude is always involved in the commission of an act which comes within that section, and may indeed involve an offence of the deepest moral turpitude.

2. We have to consider now, what is the proper order which should be passed. During the argument it was indicated to Mr. Sherwani that there might some day when he would regret not being a member of the profession. We feel that we ought to be cautious not to pass such an order as would for all time deprive Mr. Sherwani of his right to practise as an Advocate. But that is a very different thing from saying that he ought, at this moment, to remain an Advocate of the Court, in our view, he ought not to be allowed to continue on the Rolls. In view of the conviction which has been passed against him, we order that the name of Tasadduq Ahmad Khan Sherwani be struck off the Rolls of this Court. If, however, it should happen that, hereafter, Mr. Sherwani should desire to re-join the profession and should make an application to the Court, we hope the Bench who will have to decide that matter will give it favourable consideration if they are of opinion that the circumstances then put forward by Mr. Sherwani and his demeanour and attitude in the matter make it just and reasonable for them to do so.