

(1922) 01 AHC CK 0045
In the Allahabad High Court

In Re: Tasadduq Ahmad Khan Sherwani Barrister at-law

Date of Decision : 23-01-1922

Acts Referred:

Citation : (1922) ILR (All) 352

Hon'ble Judges : Grimwood Mears, C.J.; Pramada Charan Banerji, J.; Muhammad Rafiq, J

Bench : Full Bench

Judgement

Grimwood Mears, C.J., Pramada Charan Banerji and Muhammad Rafiq, JJ.—
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 Charra. That matter was investigated by the Magistrate, who on the 18th of July, 1921, convicted Mr. Sherwani u/s 153 A. 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 today 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 in In the matter of Rajendra Nath Mukerji ILR (1899) All. 49. 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 come a 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 rejoin 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.