
(1989) 04 KL CK 0012
In the High Court Of Kerala
Case No : O.P. 3397 of 1984

P.K. Jose

APPELLANT

Vs

State and another

RESPONDENT

Date of Decision : 17-04-1989

Acts Referred:

Advocates Act, 1961 — Section 2(1)(a), 34, 49(1)(gg)

Citation : (1990) 1 KLJ 425

Hon'ble Judges : T.L. Viswanatha Iyer, J

Bench : Single Bench

Advocate : T.L. Ananthasivan, for the Appellant; M.C. Gopi Govt. Pleader, for the Respondent

Judgement

T.L. Viswanatha Iyer, J.—An advocate as defined in section 2(1)(a) of the Advocates Act 25 of 1961 (the Act), has to conform to regulations in the matter of robes. Section 34 of the Act enables the High Court to make rules laying down the conditions subject to which an advocate shall be permitted to practice in the High Court and in the courts subordinate thereto. Power is also conferred by section 49(1)(gg) on the Bar Council of India to make rules prescribing the form of dresses or robes to be worn by an advocate appearing before any court, or tribunal.

The High Court of Kerala has, in exercise of the powers vested in it u/s 34, framed rules dated July 10, 1969 laying down the conditions subject to which an advocate shall be permitted of practice in the High Court of Kerala, and in the courts subordinate there to Rule 12 of these rules prescribes the dress to be worn by an advocate, and runs as under:

12. Advocates appearing in Court shall wear the following dress.

(1) Advocates other than lady advocates :-

(a) Black buttoned up coat (chapkan achkan or sherwani), Barrister's or Bachelor of Laws" gown. and bands, or

(b) Black open collar coat, white shirt, white collar, stiff or soft, with Barrister's or Bachelor of Laws' gown and bands.

(2) Lady Advocates :-

Regional dress of subdued colour with Barrister's or Bachelor of Laws' gown, white collar, stiff or soft, and bands.

Some doubt was expressed at the hearing of the case as to whether this rule could apply to advocates appearing in criminal courts, as the rules of which it forms part appear as Appendix III to the Kerala Civil Rules of Practice. I do not however find any room for doubt as the rule does not make any distinction between civil and criminal courts, and therefore, the dress regulations prescribed by this court must apply equally for appearance before the civil and the criminal courts.

2. The Bar Council of India has in its turn framed rules regarding dresses or robes to be worn by Advocates. These rules appear in Chapter IV of Part VI of the Bar Council of India Rules, and run thus:

CHAPTER IV

Form of Dresses or Robes to be worn by Advocates (Rules u/s 49(1)(gg) of the Act)

Advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities shall wear the following as part of their dress which shall be sober and dignified.-- Advocates other than lady Advocates

1. (a) a black buttoned up coat, chapkan achakan, black sherwani and white bands with Advocates' Gowns, or

(b) a black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocates' Gowns.

In either case long trousers (white, black striped or grey) or Dhoti. Lady Advocates

2. (a) Black and full or half sleeve jacket or blouse, white collar, stiff or soft, with white bands with Advocates' Gowns;

(b) Sarees and long skirts (white or black or any mellow or subdued colour without any print or design) or Flare white, black or black striped or grey).

Provided that the wearing of Advocates' gown shall be optional except when appearing in the Supreme Court or in a High Court. Provided further that in Courts other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court a black tie may be worn instead of bands.

3. The original petition is consequent on the insistence by the second respondent, the Joint Commissioner of Excise, Trivandrum, before whom the

petitioner Advocate appeared in an appeal arising under the Abkari Act, that the petitioner should wear appropriate robes before he could be heard. It is stated that he refused to hear the petitioner's arguments in the appeal unless he put on the "uniform of the advocate" with bands and Advocates' Gown. The petitioner thereupon filed this original petition challenging the said demand.

4. Even at the outset, it has to be stated that the original petition, so far as the petitioner is concerned, has become irrelevant, and D does not require any decision at this distance of time. But I am dealing with the matter in view of its general importance, and the need for clarification. In view of its importance to the profession, this court had earlier issued notice to the Bar Council of Kerala the Kerala Chapter of Indian Women Lawyers' Federation, the Kerala Lawyers' Association and the Kerala High Court Advocates' Association, pursuant to which Mr. M. M. Abdul Azeez, Chairman of the Kerala Bar Council appeared and elucidated the position. I express my appreciation of the ready response of the Bar Council to the notice of this court, on a matter touching the profession, and the assistance rendered by Mr. Abdul Azeez.

5. The rules framed by the High Court apply for appearance before the High Court and the courts subordinate thereto. The rules framed by the Bar Council of India provide also for appearance before tribunals and authorities. So far as courts are concerned, both these rules are in unison, in regard to male advocates, though the provisions vary in minor details in the case of lady Advocates. The questions for decision is regarding the dress to be worn by Advocates appearing before tribunals and authorities, particularly whether they should wear bands and Advocates' Gown for such appearance. The rules made by the Bar Council of India, which apply to such appearance do not oblige Advocates to wear the Advocates' Gown when appearing before tribunals and authorities, as it is made imperative only when appearing in the Supreme Court and in the High Court. It is optional for appearance in other Courts, tribunals and authorities. The rule further enables appearance with a black tie, instead of bands, in any court other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court.

6. A reading of the rules framed by the Bar Council of India shows that a black coat of the type mentioned, (with white shirt and white collar, stiff or soft, in cases falling under Rule 1(b), chapkan, achkan or black sherwani, is essential in the case of male Advocates appearing before tribunals and authorities. They should also wear white bands or a black tie. Advocates' Gown is not obligatory. Male Advocates are properly robed for appearance before tribunals and authorities, if they are dressed as above.

7. So far as lady Advocate are concerned, they need conform to the general dress regulations prescribed in Rule 2, tread with the provisos regarding Gown, bands and black tie. They need not wear Advocates' Gown before tribunals and authorities.

8. The proper dress for Advocates for appearance before tribunals and authorities is as stated above. Insistence on wearing of bands only (instead of tie), and Advocates' Gown, is misconceived and uncalled for. As stated earlier the original petition does not call for any orders at this distance of time. It is therefore closed with the above clarification.