

(1922) 05 BOM CK 0010
In the Bombay High Court

Shankar Ganesh Dabir

APPELLANT

Vs

The Secretary of State for India

RESPONDENT

Date of Decision : 23-05-1922

Acts Referred:

Citation : (1923) 25 BOMLR 131

Hon'ble Judges : Sumner, J;John Edge, J;Carson, J;Buckmaster, J;Atkinson, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Buckmaster, J.—As a concession to the urgent request of counsel, their Lordships will briefly state the reasons why they are not able to advise that leave to appeal should be granted to the petitioner, but this indulgence must not be taken as recognising any departure from established practice, nor affording any precedent for the future. In expressing the opinion which they hold that this petition ought to be refused, their Lordships expressly desire to make plain that their opinion carries with it no approval of or reflection upon the order against which leave to appeal is sought. That order was entirely one for the discretion of the Court that made it, and the only matter that it has been necessary to consider is whether a prima facie case has been made out to establish that there was no foundation upon which that discretion could properly repose. It appears that the petitioner was, on May 3, 1921, bound over by the Sub-divisional Magistrate at Basim to keep the peace for a period of one year, and that order was confirmed by the District Magistrate and by the Court of the Judicial Commissioner, The offence which he had committed was connected with an agitation against payment of the Mahar Baluta, and it appears that in the course of such agitation he did not confine himself to protests, however vehement, against the tax, or against its injustice, but that he urged an organised resistance to payment, and attempted to establish a system which would have impeded and might have defeated its recovery with grave danger to the public peace. These considerations led to the conviction to which reference has been made, and caused his conduct as a

pleader to be brought before the Court in their jurisdiction under the Legal Practitioners Act of 1879. Their Lordships are of opinion that the circumstances to which they have referred were sufficient to found jurisdiction u/s 13, Sub-section (f), of that Act, which is not confined to acts done in a professional capacity, and for these reasons they think that no leave to appeal ought to be granted in this case, and they will humbly advise His Majesty accordingly.