
(2001) 07 PAT CK 0126
In the Patna High Court
Case No : Cr. Misc. No. 16967 of 2001

Smt. Krishna Kumari and Another	Vs	APPELLANT
The State of Bihar and Another		RESPONDENT

Date of Decision : 09-07-2001

Acts Referred:

Citation : (2001) 07 PAT CK 0126

Final Decision : Dismissed

Judgement

S.K. Chattopadhyaya, J.—Heard learned Counsel for the Petitioners.

2. In this application prayer has been made to restore Criminal Revision No. 166 of 2001, which was dismissed for non-prosecution on 04.4.2001.

3. It appears from record that though three advocates were engaged by the revisionist before this Court but on 04.4.2001 none of them had appeared either to press the application or to seek adjournment and thus the case was dismissed for non-prosecution.

4. In paragraph-2 of the restoration application it has been stated that the said revision application was listed before the Court at serial No. 13 under the heading "For Admission", but the case could not be marked by the office clerk of the advocate concerned. Hence nobody appeared before the Court to press the application.

5. Except blaming the clerk neither of the three advocates on record has given any explanation as to why none of them could not mark the cause list. The litigant engages the lawyer and not the clerk. The Clerk is being employed by the concerned advocate and so it is the duty of the concerned advocate to see that daily cause lists are properly marked. this Court, time without number, has found this type of laches and carelessness on part of the advocate(s) on record. Usually the Courts do not dismiss a case on ground of non-appearance of a counsel considering that a litigant should not suffer for laches on part of the counsel, but I am constrained to say that taking advantage of this sympathising attitude,

some members of the Bar do not even care to respond to the call for taking adjournment. On the other hand when a case is dismissed on the ground of nonappearance, a lame excuse is given in the restoration application that the list could not be marked. Where in a case number of lawyers are engaged, I fail to understand as to why not a single lawyer should not be present at least to seek adjournment of the case explaining the difficulty.

6. In the case of *In Re: Sanjiv Datta and Others*, their Lordships noting casual and indifferent attitude of some of the lawyers and expecting improvement in quality of service, have observed:

Of late, we have been coming across several instances which can only be described as unfortunate both for the legal profession and the administration of justice. It becomes, therefore, our duty of bring it to the notice of the members of the profession that it is in their hands to improve the quality of the service they render both to the litigant-public and to courts and to brighten their image in the society. Some members of the profession have been adopting perceptibly casual approach to the practice of the profession as is evident from their absence when the matters are cased out, the filing of incomplete and inaccurate pleadings--many times even illegible and without personal check and verification, the non-payment of court fees and process fees, the failure to remove office objections, the failure to take steps to serve the parties, of all. They do not realise the seriousness of these acts and omission. They net only amount to the content of the court but do positive disservice to the litigants and create embarrassing situation in the court leading to avoidable unpleasantness and delay in the disposal of matters. This augurs it tot the health of our judicial system.

The legal profession is a solemn and serious occupation. It is noble calling and all those who belong to it are its honourable members. Although the entry to the profession can be had by acquiring merely the qualification of technical competence, the honour as a professional has to be maintained by its members by their exemplary conduct both in and outside the court. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilized society. Both as a leading member of the intelligentsia of the society and as a responsible citizen the lawyer has to conduct himself as a mode for others both in this professional and in his private and public life. The society has a right to expect of him such ideal behaviour. It must not be forgotten that the legal profession has always been held in high esteem and its members have played an enviable role in public life. The regard for the legal and judicial systems in this country is in no small measure due to the tireless role Splayed by the stalwarts in the profession to strengthen them. They took their profession seriously and practised it with dignity, deference and devotion. If the profession is to survive, the judicial system has to be vitalised. No service will be too small in making the system efficient effective and credible. The casualness and indifference with

which some members practice the profession are certainly not calculated to achieve that purpose or to enhance the prestige either of the profession or of the institution they are serving. If people lose confidence in the profession on account of the deviant ways of some of its members, it is not only the profession which will suffer but also the administration of justice as a whole. The present trend unless checked is likely to lead to a stage when the system will be found wrecked from within before it is wrecked from outside. It is for the members of the profession to introspect and take the corrective steps in time and also spare the courts the unpleasant duty. We say no more.

7. The same view has been expressed by their Lordships with concern the case of Ramon Services Pvt. Ltd. v. Subhash Kapoor and Ors. Civil Appeal No. 6385 of 2000 dated 14th November, 2000 reported in 2001 (1) PLJR (SC) 143.

8. In this Court number of restoration applications are piling up only for the reason that the counsel do not care to come to Court when the cases are called if they have right to get an adjournment even where no one appears for eking the same.

9. In the present restoration application I find no sufficient ground to restore Criminal Revision No. 166 of 2001, which was dismissed for default.

10. This application is, accordingly, dismissed.