
(1915) 12 MAD CK 0049
In the Madras High Court

The District Judge of Kistna

APPELLANT

Vs

C. Hanumanulu

RESPONDENT

Date of Decision : 02-12-1915

Acts Referred:

Legal Practitioners Act, 1879 — Section 13(b), 14

Citation : AIR 1916 Mad 144(2) : (1916) ILR (Mad) 1045 : 32 Ind. Cas. 326

Hon'ble Judges : John Wallis, C.J.; Seshagiri Ayyar, J.; Coutts Trotter, J

Bench : Full Bench

Judgement

John Wallis, C.J.—In this case the District Munsif of Bezwada has taken proceedings u/s 14 of the Legal Practitioners Act (XVIII of 1879)

against a second-grade pleader practising in his Court. The charge as framed is for contempt of Court covered by Section 13(f) of the Legal

Practitioners Act and a preliminary objection has been taken that a Subordinate Court is not authorized to take proceedings u/s 14 in cases which

come under Clause (f) of Section 13 "for any other reasonable cause" and is confined to cases falling under Clauses (a) and (b). There was some

ground for this view under the corresponding Sections 15 and 16 of Act XX of 1865, as the former section gave a power of suspension or

dismissal for "fraudulent or other grossly improper conduct in the discharge of his professional duty or for any other reasonable cause" while the

Subordinate Court was only empowered to investigate charges of "such conduct as aforesaid" and accordingly it was held in In the matter of the

petition of Gholab Khan (1871) 7 B.L.R. 179 that cases which did not come under "fraudulent or other grossly improper conduct in the exercise

of professional duty but under any other reasonable cause" were not covered by Section 16 of that Act. Following this decision, Hill, J., in In the

matter of Purna Chandra Pal ILR (1900) Calc. 1023 expressed the opinion that the words in Section 14, ""taking instructions except as aforesaid

referred to Clause (a) of Section 13 and that the words ""any such misconduct as aforesaid"" referred to Clause (b) ""fraudulently or grossly improper

conduct in the discharge of his professional duty"" and that a Subordinate Court had no power to take action in cases falling within Clause (c), (d),

(e) or (f) of that section. This restrictive construction is not supported by the judgment of their Lordships of the Judicial Committee in In the matter

of Southeikul Krishna Rao (1887) 14 I.A. 154 to which Hill, J., referred, as in that case no question as to Clause (f) of Section 13 arose or was

considered and it was apparently doubted by Krishnaswami Ayyar. J., in In the matter of the Second-grade Pleaders ILR (1911) Mad. 29.

Further as pointed out by Knox, J., in In the matter of the petition of Mahomed Abdul Hai ILR (1907) All. 61 it ignores the fact that Clauses (c),

(d) and (e) were introduced into Section 13 by Act XI of 1896, There is no good reason why charges under these clauses should not be

investigated in the first instance by the Subordinate Court, and it would be very inconvenient if they could not. Their introduction into Section 13 of

the Act without any amendment of Section 14 goes rather to show as observed by GHOSE, J., in In the matter of Puma Chander Pal (1) that

Section 14 as it stood was deemed wide enough to cover them, and on the whole we agree with the view of KNOX, J., that Section 14 covers all

the clauses of Section 13. We think therefore that the objection that the District Munsif had no jurisdiction to take proceedings against the

practitioner in respect of conduct alleged to come within Clause (f) of Section 13 must be overruled.

2. In this view it is not very material whether the charges should not have been under Clause (b) ""for grossly improper conduct in the discharge of

professional duty"" rather than under Clause (f) ""for any other reasonable cause"" as the facts are fully set out in the charge and the respondent was

in no way prejudiced.

3. Further it is now well settled that Clause (f) is not confined to cases of misconduct ejusdem generis as those referred to in the preceding clauses

but includes other cases of misconduct as well, and may therefore well be considered to include the present case in which the alleged misconduct

consisted in the pleader's conduct towards the Court and not to the parties in the case. See *In the matter of Puma Chandra Pal* ILR (1900) Calc.

1023 and *In the matter of a Pleader* ILR (1903) Mad. 448.

4. Coming now to the facts, the case arose out of a suit on a promissory note against a zamindar in which the District Munsif gave the plaintiff a

decree and sanctioned the prosecution of the defendant for perjury. The sanction was revoked by the District Court, and the zamindar then sued

the pleader who had appeared for him at the hearing of the suit for damages and also instituted proceedings against him u/s 13(b) of the Legal

Practitioner's Act for alleged grossly improper conduct in the course of his professional duty and in these proceedings the zamindar was

represented by the respondent. On 11th December 1913 in the course of the proceedings the District Munsif insisted on putting certain questions

to the respondent as the pleader in the case with a view of satisfying himself apparently that the proceedings were really authorized by the zamindar

and on the following day the respondent filed in Court the affidavit which is the subject of the reference. It fills no less than 25 folio pages of print

and concludes with the statement that as everything looked in ominous (sic) for the respondent, he was obliged to file it for the perusal of the High

Court and that it was necessary in the interests of justice that the District Munsif should be requested not to adjudicate in the proceedings then

before him against the other pleader. It is unnecessary to say much about the contents of the affidavit, as Mr. Prakasam who appears for the

respondent has very properly not attempted to justify it and has contented himself with urging, in mitigation the respondent's state of mind at the

time. It refers at great length to numerous proceedings in which the respondent had appeared before the District Munsif as a litigant or a pleader

and is full of aspersions, imputations and insinuations couched in insulting language, charging the District Munsif with rancour and prejudice against

the respondent and with a desire to injure him and to make common cause with his political opponents in the Bezwada Municipal Council. It has

not been contended before us that there was anything in the District Munsif's conduct on the Bench which could in any way excuse or palliate the

respondent's conduct in filing the affidavit, but it was urged in effect that in the case of the respondent ordinary professional rivalries had been

aggravated by bitter feuds with other members of the local bar arising out of municipal politics which preyed on his mind and affected his judgment.

It is bad enough that disputes of this kind should be allowed to destroy the good relations which ought to exist between members of the bar but it

would be far worse, if they were recognized as an excuse for outrageous attacks upon the Court in the exercise of its functions. Giving the fullest

consideration to what has been urged by Mr. Prakasam and to respondent's long standing at the bar, we feel bound to mark our sense of his

misconduct by suspending him for four months from this date from the exercise of his profession.