

MANU/BH/0111/1937

Equivalent Citation: AIR1937Pat433, 170Ind. Cas.339, 170Ind. Cas.339

**IN THE HIGH COURT OF PATNA
SPECIAL BENCH**

Decided On: 20.04.1937

Appellants:**In Re: G., an Advocate**

Hon'ble Judges/Coram:

Courtney Terrell , C.J., Mohamad Noor and Varma , JJ.

JUDGMENT

1. In this matter we have to consider the conduct of an Advocate of this Court and the report thereon by a tribunal appointed under the Bar Councils Act. The facts are simple. Another Advocate whom I will designate as X was in charge of a certain first appeal pending in this Court on behalf of the appellants. The appeal was eventually disposed of and a sum of money remained due to the Advocate X from his clients and a sum of money was lying to the credit of the appellants as surplus printing cost in the High Court. The Advocate X had a clerk who up to that time seems to have given satisfaction to his employer. There is a rule governing the practice of the office. When money is to be withdrawn standing to the credit of a client, the Advocate has to go down personally to acknowledge the receipt of the money. This practice is sometimes inconvenient for Advocates of leading practice, with the result that a Junior Advocate whose time is not so precious is instructed to take out the money. In this particular case the Advocate X was not accustomed to receive money in the office and the practice I have described seems to have been usually followed by him of advising the client to get the services of a Junior Advocate for that limited purpose. On one morning the clerk of the Advocate X went to the Advocate whose conduct we are considering with what purported to be a vakalatnama on behalf of the appellants authorizing him to withdraw the sum standing to the appellants' credit. The Advocate being aware of X's general unwillingness to perform that kind of duty and being directly approached by X's clerk accepted the vakalatnama from the clerk, He should have of course ascertained that the vakalatnama was genuine and that the person who gave it to him had authority to do so, but acting, as the tribunal have found, and as we have no doubt, in perfect good faith in the circumstances, he crossed out the endorsement which stood on the vakalatnama shown to him by the clerk 'received through Firangi Raf, and simply signed his name with the word 'accepted'. When the application for withdrawal was presented in the office, the irregularity of the precise form of acceptance was noticed and the Advocate was called on for an explanation and eventually the matter was directed to be placed before the tribunal of the Bar Council who investigated the matter under the head of certain charges which the tribunal thought fit to hear against the Advocate: firstly, that he had accepted a vakalatnama from a person who was not authorized to give it; secondly, that he had not complied with Rule 5 (f), Chap. IV of the General Rules and Circular Orders; thirdly that he had accepted the vakalatnama without consulting Mr. X and thereby had assisted the client in an attempt to deprive Mr. X of the amount still due to him, and fourthly, that he had stated to the Registrar that he had consulted Mr. X before doing so which statement was said to be untrue. The tribunal investigated the matter and found that there was nothing to throw the slightest imputation upon the Advocate's professional honour. The tribunal found that in the particular

circumstances of the case, the admitted fact that Mr. X was unwilling to perform the kind of duty mentioned and the circumstance that the Advocate was approached by a person who was up to that time at least a clerk in the employ of Mr. X and trusted by him, deprived his mind of all cause for suspicion. With those findings we agree. The case is, however, of some importance, because it emphasizes the extremely clear necessity that Advocates when having to withdraw money or to accept serious responsibility of the kind from and on behalf of clients should, even if there be no apparent circumstances to justify a suspicion, do everything in their power to verify the form of the vakalatnama, and furthermore, they should not accept a vakalatnama unless they have satisfied themselves of the bona fides of the person who offers it to them. Some discussion took place in the matter of the alleged statement by the Advocate to the Registrar as to the prior consultation with Mr. X, but the tribunal unanimously found that there was no intention on the part of the Advocate to deceive the Registrar and that the interpretation of his statement to the Registrar was a matter of a misunderstanding. The tribunal (may?) make certain recommendations which will carefully be considered as to the advisability of altering the rules in certain respects which at this time it is not necessary to discuss. With the emphasis of the importance to the profession and to the administration of justice of the accurate verification of vakalatnamas, we see no reason to disagree with the report of the tribunal or to make any further order in this matter.

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