

MANU/BH/0009/1955

Equivalent Citation: AIR1955Pat80, 1954(2)BLJR509, 1955CriLJ371

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

Misc. Judicial Case No. 182 of 1953

Decided On: 24.08.1954

Appellants:**In Re: Krishna Ojha Mukhtear**

Hon'ble Judges/Coram:

Das, Vaidynathier Ramaswami and Jugal Kishore Narayan, JJ.

Counsel:

For Appellant/Petitioner/Plaintiff: A.K. Dutt and Rajdeo Narain Sinha, Adv.

For State: Standing Counsel

ORDER

1. A rule was issued by this Court calling upon Shri Krishna Ojha, who had been practising as a Mukhtear at Nawadah until he was convicted in a criminal case, to show cause why he should not be proceeded against under the Legal Practitioners Act on the ground amongst others that he had been convicted, under Section 395 Penal Code.

2. The facts of the case are a bit peculiar, and It appears from the judgment of this Court that the prosecution of the Mukhtear had been started on a complaint filed by one Dwarka Prasad, another practising Mukhtear at Nawadah. In the evening of 13-5-1949, there was a meeting of the guardians of the students reading in the Nawadah Gandhi High English School and in that meeting one of the Mukhtears of Nawadah made some strong remarks against Dwarka Prasad, who was a member of the Managing committee of the school. Dwarka Prasad took exception to the remarks, but Shri Krishna Ojha not only endorsed those remarks but threatened the members of the Committee.

A few" hours after this meeting, that is, at about 10-30 or 11 P.M., when Dwarka Prasad was coming to his house, he passed by a place called Kadamkuan and there heard a hulla. On enquiry he learnt that a quarrel was going on in the house of a 'Dhobi' regarding partition of the Dhobi's properties. Dwarka Prasad said that a partition could not be effected in such a manner and thereupon Krishna Ojha ordered his arrest on the ground that he was interfering with the work of the Gram Panchayat. Shri Krishna Ojha further directed that Dwarka Prasad should be taken to the house of the President of the Panchayat for being dealt with. Dwarka Prasad was then forcibly taken to the house of one Parmeshwar Singh and there, was made to sit on a chabutra. Shri Krishna Ojha went inside the house of Parmeshwar Singh and when he and Parmeshwar Singh came out, Parmeshwar Singh declared that he had imposed a fine of Rs. 25/-on Dwarka Prasad for his improper conduct.

When Dwarka Prasad protested and refused to pay the fine, Shri Krishna Ojha suggested that the wrist-watch which he was wearing should be taken in lieu of the fine, and on the direction" of Sri Krishna Ojha two other persons, Who were also

accused in the case along with Shri Krishna Ojha, snatched away the wrist-watch from him and then allowed him to go away. The next following morning Dwarka Prasad filed a petition of complaint before the Subdivisional Magistrate, Nawadah, and several persons including Shri Krishna Ojha were summoned. All the accused persons were committed to Sessions, and so far as the charge under Section 342 against Shri Krishna Ojha was concerned, a compromise petition was filed by the complainant and the accused persons. The learned Additional Sessions Judge however convicted all the accused under Section 395 Penal Code, and each of them was sentenced to undergo rigorous imprisonment for a period of three years. The conviction and the sentence were confirmed by this Court and the findings were: (1) that this Mukhtear and the other accused persons had constituted themselves into a 'dal' (group or committee) and had been proclaiming that they were members of the Gram Panchayat; (2) that posing as a tribunal, they were meddling with the private affairs of the public and settling their disputes; and (3) that they were all responsible for the illegal arrest of Dwarka Prasad and that under the orders of this Mukhtear the wrist-watch of Dwarka Prasad had been snatched away from him when he had refused to pay the fine. The Mukhtear after having served the period of imprisonment was released some time in 1952, there having been a remission of one year out of his sentence for good conduct. After release, he applied for renewal of his mukhtearship licence, but the District Judge of Gaya Was not able to renew his licence on account of his conviction under Section 395 Penal Code, and referred his case to this Court for such orders as may be deemed fit and proper.

The Mukhtear filed another application before this Court for renewal of his licence on 10-4-1953. On 5-5-53 he was called upon to show cause why he should not be proceeded against under Section 12, Legal Practitioners Act, and on 14-8-53 he showed cause.

3. Mr. A.K. Dutt who has appeared on behalf of the Mukhtear before us has made a very fair submission. The only submission made by learned Counsel is that if the Mukhtear is to be suspended, it should be taken into consideration that he has been kept out of practice for a considerable length of time. No other contention has been put forward by learned Counsel, and there cannot be least doubt, that the Mukhtear's conduct has been very improper and amounts to moral turpitude. The expression 'defect of character' as used in Section 12, Legal Practitioners Act, includes not only moral turpitude, but also such defect in the character of a legal practitioner which renders him unfit to be a member of the honourable profession to which he belongs. Though Shri Krishna Ojha cannot be regarded as a professional dacoit or robber, the offence which he had committed technically came within the purview of Section 395 Penal Code. In the circumstances, he certainly comes within the mischief of Section 12, Legal Practitioners Act. He applied for the renewal of his licence soon after he had been released; and after his conviction and when he was serving the sentence, it was impossible for him to apply for the renewal of his licence.

4. After taking into consideration the entire circumstances of the case, we consider it proper to suspend the Mukhtear, Shri Krishna Ojha, for a period of one year from today. After the period of his suspension is over, it will be open to him to apply for the renewal of his licence.