

MANU/BH/0085/1962

Equivalent Citation: AIR1962Pat330

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

Civil Ref. No. 3 of 1959

Decided On: 24.01.1962

Appellants:**In Re: Raghubansh Narain Sinha, Pleader**

Hon'ble Judges/Coram:

S.C. Mishra, Udai Sinha and S.P. Singh, JJ.

Counsel:

For State: Bhabanand Mukherji and K.D. De, Advs. for Raghubansh Narain Sinha, Adv. and G.P. Shahi, Adv.

JUDGMENT

S.C. Mishra, J.

1. This is a reference by the learned District Judge of Saran under Section 14 of the Legal Practitioners Act for the suspension of Sri Raghubansh Narain Sinha, Header, Siwan. The charge against him was that he was a pleader practising at Siwan and appeared for one Nisar Ahmad in the court of the Munsif Magistrate at Siwan in suit No. C. R. 69/T. 253 of 1955 (State versus Nisar Ahmad) Nisar Ahmad was ordered to be released on bail on furnishing the usual ball bond. The bail bond was filed in Court showing Ramchandra Mishra and Amin Ahmad as bailors. It also purported to contain the left thumb impression of Ramchandra Mishra. The pleader, Sri Raghubansh Naran Sinha, identified the left thumb impression of Ramchandra Mishra. Nisar Ahmed, however, absconded. Notice was issued to Ramchandra Mishra to show cause why he should not be saddled with liability under the bail bond which he executed as surety for Nisar Ahmad along with Amin Ahmad. In response to that notice he stated that he had never signed the bail bond in question and that it was Janeshwar Mishra who put his left thumb impression on the bail bond representing himself as Ramachandra Mishra.

2. The learned Munsif Magistrate was accordingly moved to file a complaint against Janeshwar Mishra but he declined to file it. Against that order, criminal appeal No. 290A of 1957 was filed in the court of the Sessions Judge and that court ordered on the 23rd December, 1957, that a complaint be filed against Janeshwar Mishra under Section 205, Indian Penal Code. The learned Judge also issued notice against the pleader, Raghubansh Narain Sinha, in miscellaneous case No. 1 of 1958 to show cause as to why his conduct also should not be reported to the High Court for necessary action.

3. The pleader showed cause. In his show cause petition he stated that the bail bond was produced before him by Janeshwar Mishra, who used to give him instructions in, the case on behalf of Nisat Ahmad. He was given to understand that in this bail bond the sureties were Amin Ahmad and Janeshwar Mishra, who also put his left thumb impression before him. Since Janeshwar Mishra was moving the matter and instructing him, he had no reason not to accept his statement as true and at the

moment the bail bond was placed before him for identification, he was busy and accordingly he was not able to scrutinise carefully that the bond contained the name of Ramchandra Mishra and not Janeshwar Mishra as surety. Under that mistaken impression he endorsed the bail bond. Janeshwar Mishra also filed a show cause petition in the proceeding in which he staged the circumstances in which the mistake arose. He admitted that he had put his own left thumb impression and that was so because he thought that he himself stood as one of the two sureties for the accused and his name also appeared in the body of the bond as a bailor for Nisar Ahmed.

In fact, however, the position was that originally Ramchandra Mishra and Janeshwar Mishra were to act as bailors and accordingly a bail bond with two forms was prepared showing these two persons as bailors for the accused. Subsequently, however, Ramchandra Mishra declined to act as bailor and, therefore another form was drawn up in which Janeshwar Mishra was to act as a bailor. He directed the scribe to tear up the bond which contained the name of Ramchandra Mishra but through Oversight the scribe tore off the bail bond containing the name of Janeshwar Mishra as bailor and allowed the wrong one to stand. He thought that this instruction was carried out. He also did not accordingly scrutinise the bail bond properly so as to be able to detect the error. In the circumstances nobody was to blame in the matter and it was due to sheer inadvertence of the scribe that he tore off the bail bond. Ramchandra Mishra, however, alleged, that Janeshwar Mishra was on terms of enmity with him and had certain litigations with him. He had deliberately forged his thumb impression to put him in trouble and if Nisar Ahmad, the accused, would abscond, the bail bond would be forfeited and he would have to pay the amount stipulated therein and! that it was not accidental but as a result of the deliberate plan of Janeshwar Mishra.

4 . The learned District Judge of Saran, however, has accepted the explanation contained in the show cause petition of the pleader and has held that his statement that as the time he made the note of identification he was very busy and did not read the contents of the bail bond has not been shown to be false and may be accepted. Nevertheless, he has recommended the Suspension of Sri Raghubansh Narain Sinha from practising for a period of one month on the ground that the practice of identifying people on the part of the lawyer is fraught with great responsibility and the pleader should have been careful to read the name of the person who stood as bailor and also should have been definite about the identity of a man who purported to sign or put his thumb impression before he endorsed the bail bond as having been signed by the person or persons in his presence. Failure on the part of Sri Raghubansh Narain Sinha in this case to exercise that necessary caution is an act of gross negligence and would be treated as unprofessional conduct. In view of the fact that the explanation put forward by Mm was accepted, he did not think it proper to take a serious view of the master and accordingly recommended suspension for a period of one month only.

5 . Mr. Bhabanand Mukherji appearing for Sri Raghubansh Narain Sinha has urged that if the explanation put forward was accepted by the learned District Judge, he should not have recommended) the suspension of Sri Sinha from practising for a period of one month as the circumstances disclosed in the case established bona fide mistake and not gross negligence. It is true no doubt that if the explanation has been accepted, the conclusion recorded by the learned District Judge that the conduct of the pleader amounts to unprofessional conduct is not, truly speaking, right. I, however, agree with the learned District Judge that the act of identification of a person before the court is a matter of great responsibility and any one doing so,

particularly a lawyer, has to be very careful in the matter. He has got to satisfy himself properly that the person whom he is identifying is the one who is appearing before the court in a particular capacity and should also keep in mind that any error in regard to this matter not only puts the party concerned in difficulty but also goes against the lawyer concerned who endorses any document or identifies any person. In this context, the act of Sri Raghubansh Narain Sinha must be regarded as amounting to negligence in performance of this duty as a lawyer and such situation must be avoided by a lawyer, identifying any person in court of law. Since, however, I have taken the view that the explanation of Sri Raghubansh Narain Sinha was accepted by the learned District Judge as genuine, the matter need not proceed further. The reference is accordingly discharged.

Udai Sinha, J.

6. I agree.

S.P. Singh, J.

7. I agree.

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