

MANU/BH/0130/1923

Equivalent Citation: AIR1924Pat131, 75Ind. Cas.728

IN THE HIGH COURT OF PATNA

Decided On: 16.07.1923

Appellants:**Narendra Nath Roy**
Vs.
Respondent:**The Crown**

Hon'ble Judges/Coram:

Thomas Fredrick Dawson Miller, C.J., Foster and Kulwant Sahay, JJ.

JUDGMENT

Thomas Fredrick Dawson Miller, C.J.

1. This is an application on behalf of Narendra Nath Roy a pleader practising at Ranchi asking us to quash proceedings which have been instituted against him by Subordinate Judge of Ranchi under Section 14 of the Legal Practitioners Act. The facts of the case may be shortly stated. The petitioner was engaged as pleader for the defendant in a suit for damages. On the 9th May this year the hearing of the case was concluded and the judgment was reserved. The case against the petitioner H that on the 14th May before the judgment was delivered in Court he went to the Subordinate Judge's Bench clerk and asked him how far the judgment had proceeded and what the trend of it was and the suggestion is that this was done with an improper motive. On the following day, the 15th May, judgment was pronounced in open Court decreeing the plaintiffs suit. Before the judgment was pronounced however, it appears that an application was made to the learned Judge by the defendant himself asking for stay of judgment and further proceedings pending an application to the Judicial Commissioner at Ranchi to transfer the whole case from the file of the Subordinate Judge to that of the Judicial Commissioner, the grounds of that application which has been put before us, were entirely trivial and it has been described by Mr. Hassan Imam who appeared on behalf of the present applicant as a perfectly insane application. It may or may not be that the endeavour, if he did endeavour, on the part of the petitioner to ascertain from the Bench clerk what was likely to be the effect of the judgment was directly connected with the application to remove the case from the file of the Judge to that of the Judicial Commissioner. There is no direct evidence before us nor indeed we are concerned at present with the evidence which may eventually be put forward connecting the action of the petitioner with the application for transfer. The learned Subordinate Judge refused the application for stay and in my opinion quite rightly and pronounced judgment on the 15th May. It transpired subsequently, a fact which was not known to the Subordinate Judge at the time, that the application for transfer had already been presented to the Judicial Commissioner on the same morning and had been rejected by him. That however is not a material factor in considering this case. The fact that the petitioner had endeavoured to ascertain from the Bench clerk what was likely to be the effect of the judgment was brought to the notice of the Subordinate Judge a few days later. He then apparently wrote a letter on the 18th or 19th May asking the petitioner for an explanation of his conduct. No reply appears to have been received to that letter until the 24th by which time the Subordinate Judge had drafted an order directing an enquiry into the conduct of the petitioner under Section 14 of the legal Practitioners

Act. The order was withheld as on that day the petitioner apparently wrote a letter in reply in which he did not deny that he had asked the Bench clerk when the judgment would be delivered but he did deny that he had enquired what the purport of it was. This explanation apparently did not satisfy the learned Subordinate Judge who still considered that it was a matter for enquiry. He had on the one hand a direct statement by the Bench clerk that the petitioner had enquired what the purport of the judgment was or what it was likely to be, he had on the other hand a denial by the petitioner. He accordingly framed a charge which was delivered to the petitioner calling upon him to show cause why he should not be dealt with for an offence committed within the meaning of Section 13 Clauses (6) and (7) of the Legal Practitioners Act.

2. The present application is one asking us to quash those proceedings. No very precise ground has been urged before us for exercising of powers in this case except that it WAS suggested that the offence, if it were an offence, was in any case of a very trivial nature and that the petitioner was a young man on the very threshold of his career, and even if a judicial enquiry should take place with the result that he should be acquitted that would nevertheless be a serious detriment to him in the practice of his profession in the future. It was also argued, although I think under a misconception, that the learned Subordinate Judge in acting under Section 14 of the Legal Practitioners Act was restricted in ordering in enquiry to offences mentioned under Clauses (a) and (b) only of Section 13 and that he could not order an enquiry in respect of any offence coming under Clause (f). In support of that contention he relies upon a dictum of Mr. Justice Hill in the case of Purna Chunder Pal [1900] 27 Cal. 1023 the passage in question being at page 1041. In that case Mr. Justice Hill relying upon a decision of the Privy Council in In the matter of Southekal Krishna Rao [1888] 15 Cal. 152 decided in the year 1887, took the View that the Subordinate Court acting under Section 14 was only entitled to hold an enquiry in respect of offences coming within Clauses (a) and (b) of Section 13. That dictum, however, was referred to and explained by Mr. Justice Mukharji in the case of Rasik Lal Nag. [1916] 44 Cal. 639 where he pointed out that the time when the Privy Council decision was given the Clauses of Section 13 were equivalent to what are new Clauses (a) and (b) of that Section but that the Section had since been amended and the other Clauses (c), (d), (e) and (f) had subsequently been added. That explanation clearly shows that Mr. Justice Hill was acting under a misapprehension and in any event it seems to me that the view he took with regard to the interpretation of the present Section of the Legal Practitioners Act was and extremely narrow view and unjustifiable. I have no doubt therefore that the learned Subordinate Judge was quite competent to order an enquiry into the facts and circumstances of the present case whether it came under Clause (b) or whether it came under Clause (f) of Section 13 of the Act. In my opinion therefore this application ought to be rejected.

3. The matter is one clearly for enquiry. It may be or it may not be that the petitioner did in fact ask the bench clerk what was the trend of the judgment. If he did so that was in itself to my mind clearly professional misconduct on the part of the pleader, No pleader standing as he does in a fiduciary position towards the Court is entitled either out of motives of curiosity or still less out of less excusable motives to endeavour to find out before judgment is delivered or when the judgment is written or partly written what in fact is the effect of it. It is obvious that such conduct although in some cases it may be innocent enough in other cases may lead to most improper practices and therefore it is the class of conduct which clearly ought to be taken notice of and certainly should be stopped. The question is really one of fact whether the pleader is accurate in saying that he did not make the enquiry which he

is alleged to have made or whether the bench clerk is telling the truth when he says that the pleader did in fact endeavour to find out what the trend of the judgment was. In so far as the gravamen of the offence is concerned that of course must depend upon what the object was, if in fact the enquiry was made, in making it. If the object was on finding that the judgment was against his client to assist his client in preparing an application for transfer then I think the offence must be considered a grave one. If on the other hand assuming that the offence was committed out of pure curiosity in order to ascertain what he was not entitled to know until judgment was delivered then the offence was clearly not of such a grave character but in either case these attempts to endeavour to find out what until it is disclosed ought to be kept secret are matters which the Court cannot but look upon as professional misconduct. We are not in a position to judge one way or the other in the present case as to the facts or as to the conduct of the petitioner or as to the gravamen of the offence if in fact it was committed. At the same time I think this is a case in which we ought not at this stage to stay the proceedings. In these circumstances it seems to me that this application must be dismissed.

Kulwant Sahay, J.

4. I agree.

Foster, J.

5. I agree.

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