

In Re: Chanda Singh

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Court : Mumbai

Decided On : Feb-22-1910

Reported in : (1910)12BOMLR425

Judge : Macnaghten, ;Collins and ;Arthur Wilson, JJ.

Appellant : In Re: Chanda Singh

Disposition : Appeal dismissed

Judgement :

Arthur Wilson, J.

1. Their lordships have already intimated that they would humbly advise. His Majesty that this appeal should be dismissed. It remains now to state the reasons which have led their lordships to tender that advice.

2. The appeal is against two orders of the Chief Court of the Punjab dated 16th March, 1908, and 5th February, 1909. By the first of these orders, the Chief Court removed the present appellant permanently from the list of pleaders entitled to practise, on the ground of professional misconduct. By the second order, the Court reviewed its former decision, and reduced the penalty imposed upon the appellant to suspension from practice for a period of three years.

3. The material facts are not in doubt, in their lordships' opinion. The appellant acted as pleader in a preemption suit, first for one Partab Singh, and after the death of the latter for his minor son, Harbans Singh, who was under the guardianship of his mother, Ishar Kaur. He was said to have taken advantage of that position of trust in order to cheat his client out of the subject-matter of the suit, and obtain it for himself.

4. It is unnecessary, in their lordships' opinion, to examine in detail the various proceedings which took place before the Chief Court in connection with this matter. It is enough to say briefly that, the attention of the Court having been called to the conduct of the appellant, an explanation was called for from him, and a formal enquiry ordered. The charges against him were embodied in a document printed in the Record. Those charges are not perhaps very formally drawn, but, as will be seen, the substance of what was imputed to the appellant was perfectly well understood by all parties. In the judgment of the Court, dealing in the first instance with the charges, their 1910 substance and effect were thus stated:-

We think the extreme impropriety of the conduct of this Pleader is established. He has made false and contradictory statements on matters of Ohanda fact, and these false statements must have been made in bad faith. He entered into an improper agreement with the Client. When that Client died, leaving a minor son with a mother as guardian, Chanda Singh, taking emperor advantage of the position plotted to secure for himself the benefit of the litigation, and to further his aims he made a tool of the Minor's next friend...getting him to make applications in his favour and to write collusive letters pretending that Mussammat Ishar Kaur was agreeable to Chanda Singh's taking the benefit of the litigation.

5. On this finding was based the order of the 16th March, 1908.

6. The appellant presented a petition asking for a review of the last-mentioned Order.

7. What took place when that petition came on for hearing is recorded in the Order of the Court dated 5th -February, 1909, as follows:-

An application has been made for a reconsideration of our Order, dated 16th March, 1908, which directed that the name of Chanda Singh be struck off the roll of pleaders of this Court. Many reasons for a review of our judgment have been put forward in the application submitted by Mr. Kharak Singh, but all that is now pressed upon us is that Chanda Singh has already suffered a very severe punishment, that he has been deprived of his means of livelihood, that the principles involved in our Order and the necessity for the maintenance of purity in their transaction by pleaders in dealing with their clients has been sufficiently vindicated, and that the Order may now be rescinded and Chanda Singh be restored to the roll as an act of grace. Chanda Singh has, through his pleader, expressed sincere contrition for passed lapses and a determination to act in future in a manner to satisfy the requirements of probity and uprightness in the exercise of his profession.

It was with feelings of much pain and regret that we passed an Order striking Chanda Singh's name permanently off the list of pleaders. It is always much pleasanter to show mercy than severity. But we cannot disguise from ourselves that the offender committed by Chanda Singh was a very serious one indeed. We do not think that the sentence passed was in any way too severe. It is only because Chanda Singh is a blind man, and therefore incapacitated altogether from earning his livelihood otherwise, that we find ourselves prepared to consider his application for mercy at all, and even now we feel that it would not be consistent with our duty to make the sentence in any way light. Seeing, however, that Chanda Singh is a blind man, that he has expressed deep contrition, and made promises of amendment, we think that we are justified in recommending that his sentence be reduced to one of suspension for three years from the date of our Order, dated 16th March, 1908, and if the learned Chief Judge agrees to that course Rules Regulating Enquires into the conduct of Legal Practitioners-Rule 3), we propose to pass an Order modifying our previous one and directing that Chanda Singh be suspended for three years from 16th March, 1908, i.e., until 16th March, 1911.

8. The facts are also stated in the remarks of the learned Judges P.G. of the Chief Court with reference to the present appeal.

9. Having mentioned the Petition for review presented by Chanda Singh, the learned Judges proceed to say :-

That petition was admitted to a hearing by a Division Bench by an Order CHANDA of a Judge in Chambers dated 10th October, 1908, and the Judges of this ___ Court were prepared to hear arguments, and to dispose of that Petition on the merits. When the Case came up for hearing however, Chanda Singh himself appeared, accompanied by his Counsel, and his Counsel specifically stated that Chanda Singh withdrew all the grounds alleged in his Petition as grounds for review, admitted that the facts were as found in the Order of this Court of 16th March 1908, and that he had been guilty of grave professional misconduct.

Again they say-

We think it will be agreed on all hands that there can hardly be any must conduct on the part of the legal practitioner more serious than the use of the position in which he stands to his client, to the disadvantage of the Client and the advantage of himself. We found on the facts, and this was admitted by Chanda Singh, on the 5th February, 1909, explicitly before us, that Chanda Singh, in plain English, has used his position as legal adviser to Mussammat Ishar Kaur to cheat her in respect of the property in suit.

From what has been quoted, there can be no doubt that the appellant, and his Counsel on his behalf, deliberately admitted the charges made against him in the sense in which those charges were understood by the learned Judges. That being so, it appears to their lordships that the learned Judges had ample justification for the orders appealed against, and that the latter of those two orders went as far in the direction of mercy as it properly could go.

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