

In Re: a Firm of Solicitors

In Re: a Firm of Solicitors

SooperKanoon Citation : sooperkanoon.com/332997

Court : Mumbai

Decided On : Jul-27-1942

Reported in : AIR1942Bom331; (1942)44BOMLR796

Judge : John Beaumont, Kt., C.J.

Appeal No. : In Matrimonial Suit No. 398 of 1942

Appellant : In Re: a Firm of Solicitors

Judgement :

Beaumont, C.J.

1. This is a notice to E and L, who are the two partners in the firm of E. L. & Co. to show cause why they should not be dealt with for contempt of Court in writing a letter of July 18, 1942, to Messrs. Craigie, Blunt & Caroe.

2. So far as L is concerned, he says that he knew nothing whatever about the letter, and I have no doubt that that statement is true, because E is, I know, the partner attending to the matter. I make no order against L.

3. Now, what happened was this. These proceedings are a divorce suit by a husband against his wife, and E's firm is appearing for the wife. The petitioner made an application to me in chambers for leave to amend the petition by alleging a further act of adultery, and the adultery was alleged to have taken place in a block of flats known as 'Oceana' during a particular month. Mr. Forbes, who

appeared as counsel for the wife, asked for further particulars as to the flat in 'Oceana' in which adultery was alleged to have been committed, and I said that I thought his client must probably know what the case was which she had to meet, and that I should have thought that particulars were not necessary. However, Mr. Forbes stated that his client did not know what flat was referred to, and, therefore, I directed the petitioner's solicitors Messrs. Craigie, Blunt & Caroe to identify the particular flat. It appears that as a result of their inquiry into the matter, they came to the conclusion that their witness had put the incident in the wrong block of flats, and they accordingly amended the draft order by substituting another block of flats for 'Oceana,' and it was in relation to that alteration that E wrote the letter of July 18.

4. Now, it will be apparent that there was no occasion whatever, in writing that letter, to make any criticism whatever on my conduct of the matter in chambers, because E was actually objecting to any alteration being allowed in the order which I had made. However, in writing to Messrs. Craigie, Blunt & Caroe, E said this:

His Lordship, indiscreetly and without any evidence in support, asserted that of course our client, the respondent, knew what the petitioner was aiming at, thus prejudging the issue that our client had been guilty of adultery as alleged, and His Lordship persisted in this attitude, notwithstanding that counsel had assured him that the respondent states that she had never been inside 'Oceana' in her life.

We are glad to observe that you appear to have appreciated our client's statement even though His Lordship was unable to and even though you told His Lordship that you had a witness who would make some fantastic statement about clothes for the respondent having been called for from 'Oceana'--not 'Shanti Kuteer'.

5. That letter, which was rightly brought to me by the solicitors to whom it was addressed, contains a series of insulting references to my conduct of the matter as Judge. Mere rudeness I should not have taken much notice of; but an allegation that a Judge has prejudged an issue of fact, before any evidence whatever has been called on either side, is to charge the Judge with grossly improper conduct. Indeed, if such a statement means anything, it must suggest that the Judge has

some outside knowledge, because even the most hasty and ill-balanced Judge who ever sat upon the bench could hardly decide a question of fact without any evidence or any knowledge at all. It is obviously most improper for any Judge to act upon matters not in evidence, and to avoid any misapprehension I may say that I know nobody connected with this divorce case, and I have not the slightest idea whether or not there is any substance in the charge of adultery.

6. In the course of about forty years' practice in the law, I must have read many thousands of solicitors' letters. Sometimes one finds a solicitor who thinks that it is of the essence of a clever letter to insult his opponent, but the great bulk of solicitors do not take that view, and I have often been struck with the high standard of courtesy maintained in solicitors' correspondence, which is the more remarkable, when one remembers that such correspondence is generally of a very controversial nature. But in the whole course of my experience I do not remember to have ever before come across a solicitor who thought it necessary to insult the Judge. Considerations of ordinary prudence would suggest to most people that it is inadvisable to insult the Judge who is going to try the case. But apart from that, I am quite sure that the great majority of solicitors realize that it is essential for the due administration of justice that Judges should be kept out of the region of abuse. The Judge has got to try the case, and it is of the greatest importance that the parties should have confidence in his integrity and honesty of purpose. If a practice were to grow up under which it became common for solicitors to criticise the Judge's methods, alleging that he was too stupid to appreciate one point, and too biased to do justice to another, the inevitable result would be that public confidence in the judiciary would be shaken. That is always the basis of contempt proceedings of the nature known as scandalizing the Court. Proceedings of that nature are not taken in order to relieve a particular Judge's feelings; they are taken because it is essential in the public interest that the confidence which should be reposed in Judges be not shaken by their being subjected to abuse.

7. E. has offered a very frank and unqualified apology, and has admitted that this letter was improper, and ought not to have been written. I hope this case will be a lesson to him, and that he will be more careful in future in writing letters. He must realize that membership of the solicitors' profession entails responsibilities which

have to be observed. If he had not

offered an unconditional apology, I should have imposed a sentence of imprisonment, as well as a heavy fine, because I take a very serious view of the matter. However, as E has apologized, I shall not inflict a sentence of imprisonment, but I impose a fine of Rs. 1,000 (one thousand rupees) on him.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com