

In Re: Shankar Lal

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Court : Allahabad

Decided On : Feb-05-1931

Reported in : AIR1931All580

Appellant : In Re: Shankar Lal

Judgement :

Boys, J.

1. This case came up before us on 7th March 1930, for consideration as to what action, if any, should be taken by this Court under Section 10 (2), Bar Councils Act, 38 of 1926, in reference to a complaint forwarded by a Magistrate of the first class, Mr. Waliullah, charging Pt. Shankar Lal, an advocate practising at Fatehpur, with gross misconduct, in that he instigated a false complaint against Sub-Inspector, Mukhtar Ahmad. The complaint against Mukhtar Ahmad was filed by one Sheodarshan who alleged that having come to Court for the purposes of giving evidence in a case, he was taken by Sab Inspector Mukhtar Ahmad from the verandah of the Court to a little distance away under a tress and was there told that he must give evidence identifying a particular accused in another case. Sheodarshan, according to his own account then given, had refused and was threatened by the Sub-Inspector that he would be challaned under Section 110, Criminal P. C, and upon his persisting in his refusal he was slapped once or twice by the-Sub-Inspector. On hearing the commotion two or three of the vakils, according to Sheodarshan, arrived, and the Sub-Inspector went away.

Sheodarshan says that he went straight to the Court of Mr. Ganga Earn, Subdivisional Officer of Khaga, and complained that he had been beaten by the Sub-Inspector. The Subdivisional Officer, Mr. Ganga Ram in his evidence corroborates Sheodarshan on this point and apparently sent for the Sub-Inspector and the Sub-Inspector came and the latter alleged that Sheodarshan was to have been a witness in the case and had been got at by the other side and refused to give evidence. Apparently Mr. Ganga Ram took no further action, and one can only assume that he let the matter slide. Sheodarshan then about 5 o'clock in the evening-the incident having taken place between 1 and 2 o'clock- filed a complaint against Sub-Inspector Mukhtar Ahmad, This all took place on 19th April 1928, nearly three years ago.

2. On 11th June 1929 after many delays (we do not suggest that the Magistrate was wholly responsible) the Magistrate Mr. Waliullah acquitted the accused. Sub-Inspector Mukhtar Ahmad, writing a very lengthy judgment criticising the witnesses for the prosecution, the great bulk of those criticisms having, in our view no value whatever.

3. On 17th October 1929, Mr. Waliullah forwarded his judgment to the District Judge with the present complaint of gross misconduct against Pt. Shankar Lal advocate, alleging that he had instigated the false complaint made by Sheodarshan against Sub-Inspector Mukhtar Ahmad. This complaint was based on the statements of defence witnesses in the criminal case that Pt. Shankar Lal and another legal practitioner, a pleader, Mr. Hashmat Ali, had instigated Sheodarshan to make a false complaint against Sub-Inspector Mukhtar Ahmad.

4. Similar proceedings but under the Legal Practitioners Act were instituted against Mr. Hashmat Ali a pleader and on 7th March 1930, when this matter first came before us, we were of opinion that we should not pass any orders until the result of the proceedings against Mr. Hashmat Ali under the Legal Practitioner's Act were known. We have now received the report of Mr. Waliullah dealing with the case of Mr. Hashmat Ali. We have been unable to discover that there is any substantial difference between the case against Pt. Shankar Lal and the case against Mr. Hashmat Ali. In the former case however Mr. Waliullah's report is unfavourable to

Pt. Shankar Lal, while in the latter case he has found that the main charge against Mr. Hashmat Ali has not been proved. In the former case he proceeded merely upon his findings in the case against Mukhtar Ahmad. In the latter case he has held his separate inquiry. The difference in the procedure adopted is due to the fact that Pt. Shankar Lal was an advocate of this Court and proceedings against him are governed by the Bar Councils Act, while Mr. Hashmat Ali is a pleader only and action against him is governed by the Legal Practitioners Act. The result is that the complaint against Pt. Shankar Lal was forwarded to this Court without any notice to him or any opportunity being given to him of showing cause.

5. Before we had, had the advantage of seeing the result of the inquiry into the conduct of Mr. Hashmat Ali we were disposed on reading the judgment in the case Sheodarshan v. Sub-Inspector Mukhtar Ahmad, to hold (a) that there was reason for believing that the complaint made by Sheodarshan against Sub-Inspector Mukhtar Ahmad was at the very least very probably a true complaint; (b) that there was certainly not sufficient material on the record for issuing any notice to Pt. Shankar Lal calling upon him to explain his conduct or directing the District Judge to make any inquiry.

6. That opinion of ours even so held has been amply strengthened by the report in the case of Mr. Hashmat Ali. We hold that there is no ground for directing any inquiry into the conduct of Pt. Shankar Lal, and we summarily reject the complaint.

7. We cannot however leave the matter at that without putting on record our view that the Magistrate was unduly hasty in making that complaint. It is right and proper that all judicial officers high or low should keep a vigilant eye on the conduct of legal practitioners, of whatever status, who are all ministers of the Court and should in proper cases institute inquiries under the Legal Practitioners Act or make complaints under the Bar Councils Act according to the status of the legal practitioner concerned; but legal practitioners are one and all, of whatever status, entitled also to the 'protection of the Court, and inquiries should not be instituted or complaints made without having given very, grave consideration to the reasonable probability of the case against the legal practitioner being well founded. As much injustice may be done to a legal practitioner by ill-conceived proceedings against

him as may be done to the public interest and to the general body of legal practitioners by failure to keep a vigilant eye upon and take proper strong action against cases of misconduct. It is manifest that permanent and under served harm may be caused to the reputation of any legal practitioner against whom ill-considered proceedings are taken.

8. We say advisedly 'ill-considered' . proceedings. It is equally the bounden duty of every judicial officer to initiate proceedings where he has upon grave consideration reason to believe there has been misconduct as it is to refrain from ill-considered proceedings and vice versa. In the present case the Magistrate could at least and should have refrained from initiating proceedings against Pt. Shankar Lal until the made inquiry into the proceedings which he was initiating against Mr. Hashmat Ali. Even though there may have been no suggestion that Pt. Shankar Lal and Hashmat Ali were acting in concert a failure to establish the case against to the latter would have suggested doubts as to the truth of the case against the former. We hold that in this case no. complaint should have been filed and the 'proceedings have disclosed nothing whatever to the discredit of Pt. Shankar Lal, and on the other hand it is more than probable that such action as he took was properly taken.

9. The complaint is rejected.

10. A copy of the order in the Miscellaneous case No. 102 against Mr. Hashmat Ali will be attached to this order. Copies of these orders will be sent free of cost to Pt. Shankar Lal.

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