In Re: R., a Pleader

In Re: R., a Pleader

SooperKanoon Citation : sooperkanoon.com/471496

Court : Allahabad

Decided On : Nov-04-1932

Reported in : AIR1933All224; 145Ind.Cas.847

Appellant : In Re: R., a Pleader

Judgement :

King, J.

1. Mr. R., a pleader, has appeared before us in response to a notice issued by a Bench of this Court to show cause who he should not be suspended or dismissed as a pleader on the ground that he has been convicted of a criminal offence which implies a defect of character which unfits him to be a pleader on the rolls of the Court. Mr. R. was the defendant in a suit pending before the Judge of the Small Cause Court at Allahabad. He took objection to an order passed by the Judge of that Court in the course of the trial of the suit and was told that, if he did not agree to the Court's ruling, he should take his grievance to the High Court. He then remarked 'there is no Chief Justice now.' On being asked by the Judge what he meant by that remark he said, 'the Chief Justice who used to bring Judges to their senses is not here and is gone.' The matter was reported to the High Court which took proceedings against the pleader for contempt of Court. He filed a written statement giving his version of the occurrence in the Small Cause Court. attempting to justify his conduct and making certain objectionable imputations upon the attitude taken by the Judge of that Court. Subsequently however the

learned Counsel who appeared for him withdrew all the allegations contained in para. 1 of his written statement, which served rather to aggravate the offence than to mitigate it, and admitted that the version given by the trial Court was correct and made an unqualified apology. He was thereupon sentenced to pay a fine of Rs. 75 for contempt of Court.

2. A Bench of this Court then passed an order on 27th June 1932, ordering him to show cause why he should not be dealt with as a pleader, under Section 12, Legal Practitioners Act, in consequence of his conviction of contempt of Court. The case for the pleader has been argued by Sir Tej Bahadur Sapru who has admitted from the outset that this Court has jurisdiction to take action against the pleader under Section 12, Legal Practitioners Act. It is admitted therefore that the pleader has been convicted of a criminal offence implying a defect of character which unfits him to be a pleader. His learned Counsel has however strongly contended that in the circumstances of this case the pleader has been sufficiently punished by the sentence of fine passed upon him and that there is no need to take any further disciplinary action against him in his professional capacity. In support of this argument, much reliance is placed upon In re Wallace (1867) 1 PC 283. In that case the appellant was an advocate and also an attorney admitted to practice in the Supreme Court of Nova Scotia. He was also a suitor in that Court. In certain cases in which he was a suitor he supposed that he had reason to complain of the conduct of the Judge of the Court and he wrote a letter of a most reprehensible character addressed to the Chief Justice reflecting on the Judges and on the administration of justice generally in the Court. The Supreme Court took action against him for contempt of Court and ordered that he should be suspended as an attorney or advocate of that Court for an unspecified period. Their Lordships of the Privy Council held that as the appellant was guilty of a contempt of Court committed only in his personal character the Supreme Court should have punished the offence with the customary punishment, namely, fine or imprisonment, and should not have imposed a professional punishment, for an act which was not done professionally. We do not think that this ruling can be interpreted to mean that an advocate should never be punished professionally for contempt of Court committed by him in his personal capacity however gross the offence may be. Their Lordships held, upon the facts of that case that there was

no necessity for the Judges to go further than to award the customary punishment for contempt of Court. The facts of the present case are somewhat dif- ferent. The pleader in his capacity as a suitor in the trial Court made a grossly improper remark reflecting upon the Judges of the High Court who at that stage had no concern whatever with the suit. There was not the slightest justification or excuse for making the scandalous attack upon the Chief Justice.

3. On behalf of the Crown the case In re Sashi Bhusan Sarbadhicary (1907) 29 All 95 has been referred to. In that case an advocate conducting an appeal before the High Court had an altercation with one of the Judges and he subsequently published an article in a newspaper attempting to vindicate his professional conduct. This article contained libellous remarks reflecting upon certain Judges of the High Court in their judicial capacity. The High Court thereupon suspended the advocate from practice under the powers conferred by the Letters Patent. Their Lordships of the Privy Council upheld the order of the High Court, remarking that the contempt of Court of which the appellant was found guilty was committed in the attempt to vindicate his professional conduct, and the publication of the libel constituted 'reasonable cause' for the suspension of the advocate from practice. That case can however be distinguished on the ground that although the contempt of Court was committed in a private capacity, it was committed with a view to vindicating the advocate's professional conduct. Section 10, Sub-section (1), Bar Councils Act, 1926, clearly shows the intention of the legislature to render an advocate punishable in his professional capacity for misconduct other than professional misconduct. We see no good reason for holding that an advocate or pleader should never be punished professionally for contempt of Court however gross such misconduct may be, provided that the misconduct is not committed in his professional capacity. Each case should be dealt with according to the circumstances.

4. In the present case it is pointed out that the pleader is a young man and that he was only enrolled as a pleader in March 1932. It is further stated before us that he had not even started practice as a pleader on 1st April 1932, when he made the offensive remarks which form the basis of these proceedings. He was also in financial difficulties and was unversed in the traditions of his profession, and he

merely made the offensive remarks in a moment of irritation and has now expressed his sincere regret. In these circumstances it is argued that there is no necessity to to take any disciplinary action against him as a pleader when he has already been punished for contempt of Court committed in his personal capacity. We have given due weight to all the ex-tenualing circumstances which have been pointed out on his behalf but we think that it would not be expedient to impose no professional punishment whatever. His remarks about the Chief Justice were, as we have already remarked, not only scandalous but utterly uncalled for and inexcusable. If the remarks had been uttered by an ordinary suitor, they would have been highly objectionable, but when they are uttered by a suitor who is also a pleader, and who therefore should feel bound to uphold the dignity of His Majesty's judicial officers, we think that the offence should be treated more severely. As remarked by their Lordships of the Privy Council In re Sashi Bhusan Sarbadhicary (1907) 29 All 95:

It is essential to the proper administration of justice that unwarrantable attacks should not be made with impunity upon Judges in their public capacity.

5. In our opinion, the pleader's misconduct has not been adequately punished by a fine of Rs. 75 only and some further professional punishment should be imposed. Having regard to all the circumstances of the case, we order that Mr. R. be suspended from practice as a pleader for a term of six months.