

**In Re: an Advocate**

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**Court :** Kerala

**Decided On :** Feb-08-1961

**Reported in :** AIR1961Ker209

**Judge :** M.A. Ansari, C.J.,; T.C. Raghavan and; M. Madhavan Nair, JJ.

**Acts :** [Bar Councils Act, 1926](#) - Sections 10

**Appeal No. :** Professional Misconduct Petn. No. 2 of 1960

**Appellant :** In Re: an Advocate

**Advocate for Def. :** K.K. Mathew, Adv. General; C.J. Antony, Secretary to Bar Council

**Advocate for Pet/Ap. :** S. Narayanan Potti,; P. Karunakaran Nair and; N.K. Varke

**Judgement :**

**Madhavan Nair, J.**

1. This is a complaint by the decree-holder in O.S. No. 50 of 1955 on the file of the Changanacherry Munsiff's Court against the advocate engaged by him for that case, on the allegation that the Advocate had withdrawn Rs. 270/- deposited by the judgment-debtor in the case for payment to the complainant-decree-holder as per the Debt Relief Act, but has not paid the same to the complainant in spite of repeated demands and a registered notice through counsel. The complaint was

referred to the learned District Judge of Quiton for inquiry, and his report concludes thus :

'The counter-petitioner is thus guilty of misappropriation of his client's money even though the misappropriation was only temporary. 'The fact that the misappropriation is only temporary does not lessen the offence or the gravity of the misconduct'. (In the matter of S. an advocate, 1937 Mad WN 1322 (FB). I am of the view therefore that the counter-petitioner ..... is guilty of professional misconduct in that his client's money was misappropriated by him and I recommend that appropriate action may be taken against him'.

Nothing was brought out in the discussion at the Bar before this Bench to satisfy us that this finding is in any way incorrect. We, therefore, accept the finding of the learned District Judge in the matter.

2. The only question that remains is the quantum of punishment to be imposed on the counter-petitioner. The petitioner has not disclosed the date when the counter-petitioner withdrew the amount from court. But, the counter-petitioner has admitted receipt of a notice demanding the money, issued to him by the complainant on 26-2-1959, and that he paid the amount only on 12-12-1959 even after the complaint before the Bar Council was filed by the decree-holder on 24-6-1959. The retention of the client's money by the counter-petitioner or even after demand by the client for a period of 9 months and more had no excuse whatever, and was quite unbecoming of the advocate. There is no case even that any fee was due to him.

3. Cases of professional misconduct cannot be viewed as cases for recovery of money or on breach of contract. This court is bound to uphold the high and rigid standard of

'professional conduct expected of and applied to a specially privileged class of persons who, because of their privileged status, are subject to certain disabilities which do not attach to other men and which do not attach even to them in a non-professional character. A legal practitioner is bound to conduct himself in a manner befitting the high and honourable profession to whose privileges he has been admitted; and if he departs from the high standards which the profession has

-set for itself and demands of him in professional matters. he is liable to disciplinary action'.

The High Court will watch zealously the professional activities of advocates enrolled by it; and if, in any case, it is established that an advocate, instead of discharging his duties faithfully like a person of trust and honour, has betrayed the trust in consequence of which a client has been constrained to adopt proceedings for misconduct against his own counsel, such advocate will be dealt with severely. The members of the legal profession should stand free from all suspicion. See the observations in *In re 'M' an Advocate*, (S) AIR 1957 SC 149 and *Ratnamma v. Abdul Khader*, AIR 1959 Andh Pra 135 (SB).

4. It is the imperative duty of the counsel. on receipt of the client's money, to inform the client thereof and pay him without any delay the amount under receipt. For non-fulfilment of this duty on the part of the counter-petitioner we suspend him from practice for a period of six months with effect from the date of service on him of a copy of this order by the learned Munsiff of Pathanamthitta in whose court he is reported to be practising.

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