State Vs. M. (Pleader)

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Court : Gujarat

Decided On : Jun-24-1964

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Judge : J.M. Shelat, C.J. and; A.R. Bakshi, J.

Appellant : State

Respondent : M. (Pleader)

Judgement :

J.M. Shelat, C.J.

1. This is an enquiry under Sections 25 and 26 of the Bombay Pleaders Act, 1920 against the pleader practising in the Court of the learned Civil Judge, Junior Division at Mahuva in the district of Bhavnagar. The proceeding relates to alleged misconduct on three occasions in the course of a Darkhast proceeding in which the pleader was a party as a judgment-debtor. The three occasions are-(1) his conduct in improperly obtaining adjournments prior to February 28, 1962, (2) his improper conduct in the open Court on February 28, 1962 when the learned Judge was trying the Darkhast, and (3) his addressing a registered letter to the learned Judge, containing certain allegations and insinuations.

2. Prior to February 1982, there were some suits and proceedings filed against the pleader by his creditors and others and pending in the Court at Mahuva. It was in fact his case that he did not resist most of these proceedings and used to settle

them after one or two hearings. At the time of the alleged incident, two Darkhasts, Nos. 88 of 1961 and 19 of 1962 and a suit, being Suit No. 1 of 1962, were pending against him in the Court at Mahuva. The pleader was residing in the house belonging to one Bhanushanker in Mahuva. An agreement of sale in respect of this house had been entered into by the pleader with the said Bhanushanker and his brother. But as the pleader declined to carry out the agreement, Bhanushanker filed a suit, being suit No. 141 of 1956, for arrears of rent and possession. The claim for possession was dismissed, but a decree for arrears of rent, namely, for Rs. 299 and proportionate costs of the suit, was passed against the pleader. Aggrieved by the rejection of the claim for possession, Bhanushanker filed an appeal, being C. A. No. 52 of 1959, in the District Court at Bhavnagar. The parties arrived at a compromise in the appellate Court and thereupon Bhanushanker stated before the appellate Court that he did not wish to proceed with the appeal and thereupon the appeal was 'dismissed for want of prosecution.' That happened on April 20, 1962. Banushanker and his brother thereafter took out an execution application No. 38 of 1961 to recover the aforesaid amount of Rs. 299/-, costs and interest, aggregating in all to Rs. 422-78 nP. As regards the compromise entered into by the parties, the compromise provided that the pleader should purchase the said house for a sum of Rs. 5601/-, that he should pay twenty-five per cent of the sale price in cash and as regards the balance, he should execute a mortgage, mortgaging the said house to Bhanushanker and his brother and pay interest at the rate of ten annas per cent per month. On the allegation that the pleader failed to carry out this agreement, Bhanushanker and his brother filed a suit in the Court of the Civil Judge, Mahuva, on January 2, 1961 against the pleader, being suit No. 1 of 1962, for specific performance and in the alternative, for possession of the said house and mesne profits.

3. In execution application No. 88 of 1961, the pleader contended that when the compromise was arrived at in the appellate Court, the decree passed by the lower Court was treated as cancelled and that therefore, there was no question of his paying anything under that decree. Notice under Order 21, Rule 22 of the Code of Civil Procedure was thereupon issued and after some adjournments, the Darkhast was fixed for hearing on February 28, 1962. It seems that the pleader had stated before the Court that he wanted to rely upon the terms of the said compromise and

had obtained an adjournment from the learned Judge on the ground that he wanted to produce a certified copy of that compromise. Until February 28, 1962 the pleader however did not care to produce the certified copy. The view taken by the learned Judge hearing the Darkhast was that as the pleader had not appealed against that part of the decree, that is, in respect of the arrears of rent, and the appeal filed by Bhanushanker was only confined to the question of relief as to possession, the said compromise related to the question of possession only and that though the appeal was dismissed on the ground of want of prosecution, that dismissal of the appeal had nothing to do with that part of the decree under which the pleader was ordered to pay the arrears of rent, costs and interest. As the pleader failed to produce the certified copy of the compromise, at the instance of the judgment-creditor the learned Judge looked at the terms of the said compromise which were filed in the record of the said suit No. 1 of 1962 and the learned Judge ordered that the Darkhast should proceed and further ordered for the issue of warrant of attachment of movable property belonging to the pleader,

4. It appears that alter the notice under O. 21, R. 22 was served upon the pleader, the Darkhast was adjourned on six different occasions, all at the request of the pleader, first on the ground that he wished to file his objections and thereafter on the ground that he wanted to produce the certified copy of the compromise which was filed in the District Court, On February 15, 1962 the pleader approached the learned Civil Judge in his Chambers and requested for an adjournment, stating that he was not keeping well and promising that he would pay half the amount involved in the execution proceedings by the end of that month, and upon that assurance the learned Judge agreed to adjourn the proceedings to February 28, 1962, although the Darkhast proceedings had already been previously adjourned on. five occasions. On February 28, 1962 when the matter reached, the pleader, without even caring to get up from the chair in which he was sitting, curtly told the learned Judge to proceed with the Darkhast according to law. According to the learned Judge, he felt that the decree-holder had been harassed from time to time by various adjournments obtained by the pleader, and the learned Judge therefore told the pleader that he ought not to have promised in his Chamber to make payment, and when asked if the pleader wanted to make any submission on the Darkhast, the pleader was alleged to have stated that the learned Judge "never

wanted to hear him.' It was alleged that the pleader, besides making this statement, also spoke in a haughty and offensive tone and used insulting and 'un-Parliamentary' language. We shall presently set out the actual language used by the pleader when we come to deal with the testimony of certain pleaders examined in the course of : the enquiry before the learned District Judge. The learned Judge warned the pleader as he felt that the dignity and decorum of the Court were not being, observed, but at the same time, feeling that he was dealing with a senior practitioner, he did not like to proceed against him for contempt and with a view that the atmosphere in the Court may not further deteriorate, the learned Judge asked the pleader in polite terms to withdraw from the Court room. The pleader, however, refused to withdraw from the Court though thrice requested by the Judge and insisted that the learned Judge should give him a written order. It was then that the learned Judge told the pleader that if he did not withdraw himself, he would have to ask the Court peon or even the police orderly to make him withdraw from the Court and thereupon the pleader left the Court room. On the next day, the learned Judge received a registered letter, admittedly addressed by the pleader, which, besides demanding a copy of a written order if an. order for his withdrawal had been subsequently passed by the learned Judge, contained certain allegations which are said to be of a seriously objectionable character.

5. The learned Judge thereupon complained to the District Judge as regards the incident of February 28, 1962 as also the said registered letter. On receipt of the letter, the learned District Judge issued a show cause notice dated April 10, 1962 against the pleader. The notice complained about the conduct of the pleader with reference to the aforesaid three occasions, and called upon the pleader to show cause why enquiry under Section 26 of the Act should not be started against him. In pursuance of the show cause notice, the pleader filed his written statement on May 14, 1962. In the written statement the pleader inter alia contended that there had been a dispute about the adjustment of the decree which should have been decided by giving him an opportunity to produce evidence but the learned Judge decided by merely perusing the terms of the compromise from the record of the said suit No. 1 of 1962 and asked him to pay the decretal amount. Thereupon he made a request to allow him to consult his advocate in the appellate Court and stated that if his contention was not tenable, he would pay the amount and

thereupon the Darkhast was adjourned to February 15, 1962. As regards his interview with the learned Judge in his Chamber on February, 15, 1962 the pleader admitted that he had seen the Judge in his Chamber and had requested for an adjournment but that was because he had to go out of Mahuva and it was at that stage that there was 'some talk' about payment and he had then stated that he would try to make some payment and thereupon the execution application had been adjourned to February 28, 1962. Regarding the incident of February 28, his case was that he had not been able to make any payment and therefore, with the desire that the Darkhast proceedings should not be prolonged, he stated to the learned Judge that he had nothing to say and that the Darkhast therefore should proceed. Since the Court asked him if he had anything to argue, he also stated that since there was no evidence in that matter, he had nothing to argue. He had however no intention to insult the Court. He denied that he had spoken in any haughty tone or offensive language and yet he was ordered to leave the Court room. According to him, the only thing that he had stated at that time was to request the learned Judge to give him a written order and thereupon the learned Judge ordered a peon to 'throw him out' and also talked about contempt proceedings and of calling the police. Regarding the letter, his case was that he had sent that letter because his request for a copy of the said order was not complied with and that it was simply to get a certified copy of that order that he had addressed that letter, especially as he wanted to know the grounds on which the order was passed. According to him 'the last part of the letter was written to show the motive for the order and not to make any allegations or insinuation or to annoy the Judge.' Besides these contentions, the pleader also urged in his written statement that the learned Judge was in the habit of pressing litigants to arrive at compromises and that whenever such compromises were not arrived at, the learned Judge showed displeasure, that the learned Judge had not treated him properly when in the open Court he told him not to come to his Chamber and that he was making false statements. He also urged in that written statement that he was not guilty of any improper conduct or of use of unparliamentary language or of failure to maintain the dignity of the Court and that in any event, he had acted as a party to the said proceeding and not as a pleader and that therefore, no proceeding could be taken against him under the Bombay Pleaders Act. Since the

explanation given by the pleader was not found satisfactory, the enquiry was proceeded with.

6. The learned District Judge recorded the evidence of the learned Civil Judge and also recorded the evidence of nine pleaders whose names had been submitted by the learned Civil Judge as being present in the Court at the time of the aforesaid incident on February 28, 1963. These nine pleaders were Messrs. D. J. Vaidya, Trambakrai Purshottam, Anantrai C. Gandhi, Shashikant J. Vyas, M. M. Nanavati, Jagannath M. Joshi, Savji Sundarji, Mathurdas Vishramdas and Jugaldas Vallabhdas. Barring one or two of these practitioners, the rest of them appear to have been practising in the Mahuva Court for a number of years and were senior practitioners of that Court. Besides the oral testimony, there were before the learned District Judge the registered letter written and addressed by the pleader to the Judge dated March 1, 1962 and the record of the said Darkhast proceedings. We may mention that the pleader did not examine himself so that he did not make himself available for cross-examination, but filed written arguments. He also declined to examine any witnesses stating that he would examine them in the High Court. No application, however, was made by the pleader before us that he had any witnesses to examine or that he wished to examine them before us.

7. In order to appreciate as to what happened on February 28, 1962 it would be necessary to narrate what took place prior to that day in connection with the said Darkhast. The facts stated in this behalf in the complaint of the learned Civil Judge are borne out in paragraph 1 of his evidence. These facts were not challenged in the cross-examination of the Civil Judge or of any other witness. On the notice under O. 21, R. 22 having been issued, the Darkhast was fixed for disposal on November 28, 1961. As many as six adjournments however were obtained by the pleader. The first adjournment was taken on the ground that he wanted to file objections which ought to have been filed on November 28, 1961. Another time, a ground was put forth that he wanted to obtain a certified copy of the terms of the said compromise. It is clear, however that though he relied upon the terms of the compromise, he did not care to produce the certified copy thereof and therefore, the only thing that the opponent could do was to show a copy thereof from the record of suit No. 1 of 1962. It is somewhat strange that though he did not care to

produce the certified copy of the said compromise, in para. S of his written statement the pleader made a grievance as if the learned Judge had not given him any opportunity to produce evidence or to address arguments thereupon and wrongly decided to look into the copy of the said compromise which was produced in the record of suit No. 1 of 1962, When the Darkhast came up for hearing on February 15, 1962 it was adjourned for the fifth time on an assurance given by him which, according to the finding of the learned District Judge, he had no intention to fulfil, namely, that he would at least pay half the amount to the decree-holder by the end of the month. It would appear from the report of the learned District Judge that on all these occasions the Darkhastdar had come to Mahuva from Bhavnagar in order to, remain present, but the Darkhast was got adjourned by the pleader on one ground or the other, a tactics, which the learned District Judge remarks, was employed by the pleader for the purpose of harassing the decree-holder. The finding on this part of the enquiry of the learned District Judge was that the pleader, without any genuine cause, obtained various adjournments with a view to cause harassment and loss by way of expensses to the Darkhastdar, a fact which the learned Judge was bound ultimately to take note of after he had shown considerable indulgence to the pleader. The learned District Judge further found that the conduct of the pleader in obtaining these adjournments in the manner aforesaid was improper and unbecoming of a pleader or even of a litigant We may observe that so far as this finding is concerned, the pleader has not addressed us at all, presumably because he had nothing which he could urge against this finding.

8. As regards the incident of February 28, 1962, as pointed out earlier, there was, besides the testimony of the learned Civil Judge, the evidence of as many as nine pleaders who were present at the time when the incident took place. It is not necessary to go into details of this evidence but the facts which emerge from that evidence are as follows:

9. When the Darkhast was called out, the Darkhastdar went into the witness-box. Since the pleader has obtained on the previous occasion adjournment on the assurance that he would pay at least half the decretal amount, the learned Judge naturally asked the pleader about the payment and as to what he had to say. The

pleader, who was sitting at that time in a chair in the second row in the Court, did not care to get up from the chair and continuing to sit in the chair replied to the learned Judge that he could proceed with the Darkhast according to law. It was then that the learned Judge told the pleader that he had been given the adjournment on the last occasion on a promise given by him to pay to the Darkhastdar and that but for that promise he would not have adjourned the matter. In the meantime, the Darkhastdar, who was in the witness-box, complained to the learned Judge that he had been put to considerable hardship and it was then that the learned Judge asked the pleader as to why he had < promised in his Chamber and since the promise was not carried out by him, how could he rely upon what he might say in future. In answer to the observation made by the learned Judge, the evidence on record testified by most of the practitioners examined before the learned District Judge shows that the pleader stated to the effect that he was not asking for mercy from the Court, that the Court was at liberty to regard him as 'a cunning man, a rogue or a loafer or in any fashion it liked and that it need not place any reliance upon him.' Naturally, since the evidence was given by these practitioners after a lapse of some time, there were bound to be some variations here and there in the words deposed to by these witnesses. But taking their evidence generally, it was to this effect- The learned Civil Judge also has stated that the pleader had spoken to him curtly and in a loud, offensive and insulting tone. When the pleader uttered these words, the learned Judge told him not to use un-Parliamentary language and that the words used by him would amount to contempt. According to the learned Civil Judge, the atmosphere at this time in the Court had become tense and since he was reluctant to take any serious action against the pleader and with a view that the situation may not deteriorate any further in the Court, he asked the pleader to withdraw from the Court but the pleader insisted upon a written order and would not leave the Court room, though asked to do so as many as three times. Though the learned Civil Judge himself has not testified to the exact words spoken by the pleader, as already stated most of the practitioners examined by the learned District Judge have deposed to these words having been uttered by the pleader as also the offensive tone and manner in which they were spoken by him. The fact, however, that the learned Civil Judge has not testified to these words does not in any way detract the value of the

testimony of these practitioners because unless these words were spoken by the pleader, there was no occasion for the learned Civil Judge to have cautioned him not to use un-Parliamentary language. The fact that that caution was given would seem to fortify the testimony of the practitioners that the pleader had spoken those words. It would seem from the record itself that there was natural reluctance on the part of these practitioners to testify in such an enquiry against one from amongst them. Finding such reluctance, the learned District Judge, while recording their testimony, was constrained to record it in the form of questions and answers. In spite, however, of this reluctance and sympathy they must have had for one amongst them, there was, as the learned District Judge remarks, almost unanimity amongst them that the pleader had used the aforesaid words and that it was when he also stated that he did not ask for any mercy from the Court that the learned Judge asked the pleader as to whether he should take the arguments as heard and thereafter the learned Civil Judge passed the aforesaid order issuing the warrant of attachment of the movable property of the pleader. It was the case of the pleader even before us that since no-evidence had been led in the Darkhast proceedings, there was nothing for him to argue and it was therefore that he had told the learned Civil Judge to proceed with the Darkhast according to law. It is quite clear however from what has been deposed to by the learned Civil Judge as also the pleaders that the learned Judge had not shut out any arguments advanced by the pleader or had declined to hear him and therefore, the allegation made by the pleader that the learned Judge had refused to hear him and that the learned Judge's conduct towards him was improper, has no justification at all. M. M. Nanavati, a senior practitioner in that Court, was obviously sympathetic towards the pleader and with a view to avoid the embarrassment of having to testify against the pleader, appears during the course of his testimony to have resorted to answers such as 'I do not remember' as he was taking at that time notes of one of his matters. Even such a witness testified that the atmosphere in the Court had become tense when the pleader told the learned Civil Judge that he was at liberty to regard him as 'a false person, a rogue' and that he did not pray for any mercy from the Court. It will be observed that none of these witnesses even suggested that the learned Judge had been guilty throughout the incident of any impropriety towards the pleader and all of them were unanimous that even when the learned

Judge asked the pleader to withdraw from the Court, he had done so in polite language.

10. On this evidence, the learned District Judge came to a finding that the pleader first curtly and without even getting up from the chair, replied that the learned Judge was at liberty to proceed with the Darkhast, Since the Darkhastdar complained of harassment caused to him as a result of adjournments obtained by the pleader, the learned Civil Judge was right in pointing to the pleader the assurance which had been given to him in his Chamber and there was nothing wrong in the learned Civil Judge saying that if such assurances were not carried out, it would not be possible for him to place reliance upon his words as a pleader. This observation was met by an insulting and offensive reply from the pleader in consequence of which the learned Judge was constrained to point out that those words would justify contempt proceedings. The learned District Judge also has come to the finding that the pleader was responsible for creating an ugly scene in the Court room and that since it appeared that he would continue to act in the same manner and yet the learned Judge was intent upon not taking any contempt proceedings, he was right in asking the pleader to withdraw from the Court room. According to the learned District Judge the pleader 'had disregarded the Judge, violated the dignity of the Court, gravely disturbed order in the Court' and created an ugly scene which could be relieved only if he was made to withdraw from the Court or the Judge were himself to retire from the Court. Some of the witnesses have stated that it would have been undesirable for the Judge to retire and that it was the pleader's duty to obey the Court's direction to him. It is true that Courts are open to all, but at the same time it is equally true that it is the presiding Judge who is responsible for maintaining order and decorum in the Court and whenever such order, decorum or dignity of the Court is threatened, the presiding Judge would be right in taking reasonable steps to restore such decorum or order. If the learned Civil Judge, therefore, felt that the pleader would continue to create an ugly scene in the Court and behave in the manner in which he had so tar behaved and believed that the atmosphere in the Court would still deteriorate, he would appear to be justified in asking the pleader to withdraw from the Court room for the time being. The fact that the learned Civil Judge did so in language which was neither impolite nor discourteous is testified by most of the persons who gave

evidence. That in fact is the finding given by the learned District Judge. The pleader, in the course of arguments, has not Been able to point out to us anything which would justify us to disagree with this finding of the learned District Judge.

11. The pleader has taken us through the evidence of the learned Civil Judge as also the evidence of these practitioners and has attempted to show that their evidence is not reliable. He pointed out to us from the evidence of Devendrarai Vaidya that that witness had previously given evidence, at least on two occasions, and that on one occasion his evidence had not been accepted by the Court He also pointed out that in another case where the practitioner had given evidence, an order of discharge of the accused in that case was passed, implying thereby that the testimony of this practitioner was not accepted. There is however nothing to show that it was because his evidence was not reliable that the trial Magistrate was constrained to pass an order of discharge. An order of discharge may be passed for a variety of reasons, not necessarily because the evidence given by a particular witness was unacceptable. The evidence on the other hand shows that a civil suit had been filed against the very same accused and a decree for a large amount was passed against that accused. Similar attempts were also made in regard to other witnesses, but in our view nothing substantial against any one of these witnesses was pointed out to us which would justify us to reject the testimony or to disagree with the view of the learned District Judge who had an opportunity of seeing their demeanour that these were reliable witnesses. As pointed out earlier, most of these practitioners are of long standing in seniority and unless there are substantial reasons, it would not be right or possible to discard their evidence. Since no such substantial reasons have been shown, it would not be possible to accede to the pleader's argument that the findings arrived at by the learned District Judge on the basis of their evidence were not correct.

12. The pleader conceded before us that ordinarily it would not be proper to address a registered letter to the Court, but contended that he wrote the registered letter to the learned Judge (1) because in spite of his repeated requests the learned judge had not given him a certified copy of the written order whereby he asked him to withdraw from the Court, and (2) because he thought that the order to go out of the Court was for an indefinite period. Neither of these contentions can

be accepted and in our view, they have been urged as an afterthought to bolster up some justification for addressing such a letter to the learned Judge. As observed earlier, the learned Judge had asked the pleader to withdraw from the Court as he did not wish the atmosphere to deteriorate further than what it had already done. There was no need for passing any written order and the demand so persistently made for such a written order by the pleader was only for the purpose of continuing the type of attitude which he had adopted towards the Court. The excuse that he demanded a written order because he wanted to know the reasons for such an order also cannot be accepted because the pleader must have known, and did in fact know, the reason why the learned Judge had asked him to withdraw from the Court. As regards the contention that he thought that the order of withdrawal was for an indefinite time, there is clear evidence of the learned Civil Judge that on that very day the pleader had come into his Court room for the purpose of filing his vakalatnama. That part of the evidence of the learned Judge has not been challenged. The contention, therefore, that he wrote the letter because he thought that the order was for an indefinite period cannot stand.

13. As a last resort, the pleader stated before us that he was constrained to address the said letter to the learned Judge because he had already tried to file a stamped application for a certified copy of the said order and that in spite of his having tried thrice, his application was not accepted. It is, however, clear that he had not stated this either in his written statement or his written arguments nor had he put such a case either to the learned Civil Judge while cross-examining him or to any one of the practitioners who gave evidence. He also admitted before us that he did not state this fact during the course of the enquiry before the learned District Judge. It is clear from these circumstances that the excuse that he wrote that letter to the learned Judge as his written application was not even entertained by the Court does not seem to have any foundation in truth and that this excuse was put forward before us when the pleader realised that it was not proper to address such letters to the Judge and that the allegations made by him against the learned Judge in that letter were of a serious character. Amongst the various statements made in that letter, the more serious ones are (1) that the learned Judge had a dictatorial temperament, (2) that he was in the habit of coercing litigants to arrive at compromises, and (3) that the learned Civil Judge behaved

towards the pleader in an improper way because he was led away by a mind biased against the pleader because he used to protest against the aforesaid tendency of the learned Civil Judge to force parties into compromises. It is somewhat curious that though specific complaint was made against the pleader by the learned Civil Judge in regard to these allegations made by him in this letter, no attempt whatsoever was made by the pleader to justify these allegations, or to establish that the learned Civil Judge was given to a tendency to coerce compromises or that the pleader had at any time protested against such inclination and that therefore the learned Judge was biased against him. None of the witnesses who gave evidence before the learned District Judge was asked any question as to whether they had experienced any such tendency on the part of the learned Judge or whether they had seen the pleader protesting at any time against such tendency or that the learned Judge had shown any prejudice or bias against the pleader. Clearly, therefore, these allegations were without any foundation. The learned District Judge on this part of the case has come to the conclusion that the letter was

insulting and insolent, even intimidatory, and full of unfounded accusations and insinuations against the learned Judge. The conduct of the pleader who addresses such an application is not merely improper but grotesque and appalling.

He has also observed that by writing such a letter the pleader himself has provided clear evidence in support of the complaint of the learned Civil Judge and in particular, about the tendency of the pleader to behave in an offensive way in the Court; Barring the attempts aforesaid to explain away this letter, we have not been able to find any justification for the accusations made against the learned Judge and the pleader has not been able to show us anything in, the record to justify our disagreeing from the findings given by the learned District Judge on this part of the case.

14. Section 26 of the Act, under which the enquiry was instituted, provides that where it appears to a District Court or the Court of Session that a pleader has been guilty of neglect of duty or of a violation of any of the provisions of this Act or of any other improper conduct, such Court may hold an enquiry regarding such

conduct and report the result of such enquiry to the High Court. Section 25, which provides for punishment for improper conduct, provides amongst other things that on a report from the District Court or the Court of Sessions, the High Court may suspend or remove from practice, or may fine or reprimand, a pleader on reasonable cause. The question that might perhaps arise would be, though such a question has not been expressly raised by the pleader before us, whether anything done or said by him on February 28, 1962 in his capacity as a litigant and not as a pleader appearing for a client, can fall within the scope of Section 25 and Section 26. It is however to be borne in mind that under Section 26 an enquiry can be held, not only for neglect of duty or for violation of any of the provisions of the Act by a pleader, but also for 'any other improper conduct' and thereafter a report of the result of such enquiry has to be made to the High Court for suitable action. Upon such a report the High Court, under the provisions of Section 25, may award such punishment as provided therein 'on a reasonable cause' having been shown. Besides, in the facts and circumstances of this case, it is not possible to say that the conduct of the pleader in regard to the incident, both prior to and on and after February 28, 1962, was separable from his conduct as a pleader, though he was appearing on those, days as a party in person. It is clear from the record that he approached the learned Civil Judge in his Chambers and obtained an adjournment in his capacity as a pleader. He gave an assurance to the learned Civil Judge to pay at least half the Darkhast amount, and obtained an adjournment upon such promise or assurance. It is clear that he could not have obtained such an adjournment and he would not have been permitted to approach the learned Judge in his Chambers except for the reason that he approached the learned Judge in his capacity as a pleader and his assurance was accepted by the learned Judge because such assurance was given by him as a pleader. The learned Civil Judge would not have acted upon such an assurance except that it came from a pleader. It is clear from the record that that assurance was given by the pleader without any intention to fulfil it. On February 28, 1982 the offensive language used by the pleader was as a retort to the observation made by the learned Judge that if such promises are not fulfilled, he would not be able to rely upon his word or assurance as a pleader. Therefore it was in his capacity as a pleader that the pleader retorted to the learned Judge that he was not asking for any mercy from

him, that he could proceed with the Darkhast in accordance with law and that he was at liberty to treat him or regard him as a false or a cunning man or as a rogue or in any manner the learned Judge liked. It is, therefore, clear that whatever was said and done by the pleader, both on February 15, 1962 as also on February 28, 1962 was not done by him in his capacity as a litigant before the Court but as one of the practitioners in that Court. Even if a contrary view were to be possible, the words and acts of the pleader on those dates would amount to reasonable cause within the meaning of Section 25 of the Act. So far as the registered letter of March 1, 1962 is concerned, there is intrinsic evidence in that letter itself which shows that that letter was addressed by him not in his capacity as a litigant, but in his professional capacity as a practitioner in that Court. The allegation that the learned Civil Judge had a biased or a prejudiced mind against him because he opposed the tendency of the learned Judge to force compromises in his Court clearly shows that the allegation was made by him not as a litigant but as a practitioner. The letter also contains evidence to show that it was purported to have been written in vindication of something which was supposed to be his right as a pleader. It appears from the record that a few days alter the incident of February 28, he approached the Bar Association with an application that suitable action should be taken by the Association. Obviously, the application was made by him not in his capacity as a litigant but as a member of that Bar and he wanted the Bar Association to vindicate his rights as against the learned Civil Judge. All these actions of the pleader clearly show that all that had been done and said by him was not in his capacity as a litigant but in his capacity as a pleader and therefore the present case would fall within the purview both of Section 25 and Section 26 of the Act.

15. Now, it is necessary for the proper administration of justice that the relations between the Bench and the Bar should be governed by a spirit of cordiality. It is, at the same time, equally the duty of those having the privilege of practising in Courts to maintain the dignity and decorum of the Courts. It is obvious that anything said or done which damages such dignity and decorum is bound to affect the public confidence which is the foundation of a fearless and an impartial administration of justice. Methods such as trying to bully the Court in the hope that the Court would be reluctant to take steps for fear of an ugly scene, or methods throwing

impediments in the way of the smooth and quick disposal of proceedings before Courts are bound to sully the dignity of the Courts, affect the administration of justice and the respect and confidence which the Courts have so far enjoyed. In the present case, there can be no doubt, in view of the findings and the report of the learned District Judge, that the conduct of the pleader, both on the day of the incident and thereafter, was highly insulting and rude. There can be no doubt also that the allegations made against the Civil Judge in the letter addressed to him on March 1, 1962 were not only of a serious character but were totally baseless and made without any regard to truth. Cases do happen sometimes when in the heat of argument things are said which in cooler moments one would not utter and in most of such cases, such remarks escape without any element of malice or spite and are at once forgotten. That, however, cannot be said in the present case. The record of this enquiry shows that soon after the incident, the learned Civil Judge called certain members of the Bar and told them that he did not like the idea of having to take steps against a member of the Bar and that he would be content if the pleader were to express regret for the allegations made against him. The pleader, however, would have none of it and refused to apologise and thought that he had rights which he insisted to vindicate. As aforesaid, he addressed an application to the Bar Association by which he wanted the Association to take cudgels against the learned Judge, but the Association told him that they would talk over the matter with the Judge and try to settle the whole thing. The pleader however insisted that he wanted redress against the alleged wrong done to him and seek what he called justice. The Association, therefore, could do nothing and filed his application. The learned Civil Judge, in these circumstances and with a view to uphold the dignity of the Court which he presided, was constrained to make a complaint to the learned District Judge as the pleader left him no other choice. It appears that even during the course of the enquiry before the learned District Judge, the pleader persisted in this attitude with the result that the learned Judge had to enter into the witness-box where he was subjected to a prolonged cross-examination by the pleader. As many as nine members of the Bar Association, present wholly Or partly in the Court when the incident took place, have as already observed, substantially supported the version of the learned Judge. There can be no doubt that the findings and the report of the learned

District Judge are based on the evidence which the learned District Judge was justified in accepting. These findings clearly make out that the case falls under the provisions of Section 26 of the Act. In these circumstances, in the interest of administration of justice, apart from the question of the dignity and the self-respect of the individual Judge, we think that it would be necessary to take a grave view of the incident which was the subject-matter of the present enquiry,

16. We agree with the findings arrived at by the learned District Judge on evidence before him and hold that under Section 26 of the Act, there is a reasonable cause to take action against the pleader under Section 25 of the Act, At one stage during the course of his arguments before us, the pleader stated that he had no intention to insult the learned Judge or to lower the dignity and decorum of his Court. But these words were spoken in such qualified and conditional terms that it was impossible to accept them as an unconditional or an unqualified apology. At the commencement of these proceedings, the pleader was represented by Mr. D. U. Shah, who, it seems advised the pleader to tender an unconditional apology and the learned advocate actually produced before us a draft apology. Thereafter the pleader instructed Mr. D, U. Shah to withdraw from this case and consequently Mr. Shah asked permission from us to withdraw from this case. The pleader thereafter appeared in person before us without the draft apology produced before us by Mr. Shah and argued the case in full, taking us through the evidence on record and contending (1) that the evidence was not reliable, and (2) that even if it was accepted, it did not amount to either improper conduct on his part or a reasonable cause within the meaning of Section 25. For the reasons aforesaid, it is not possible to accept any of these contentions. In view of the seriousness and the gravity of the allegations and insinuations made by the pleader against the learned Civil Judge and the manner in which he behaved towards the Court on February 28, 1962, it becomes necessary for us to take a serious view of the present case. We think that a punishment of suspension of the pleader's Sanad for a period of twelve months from today would be necessary on the facts and circumstances of the case. We therefore direct that the Sanad of the pleader be suspended for a period of twelve months and that the pleader should deposit his Sanad within a week's time from today in the District Court at Bhavnagar, The pleader will pay to the Government Pleader the costs of these proceedings.