

In Re: a Pleader

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Court : Chennai

Decided On : Dec-03-1945

Reported in : AIR1946Mad245; (1946)1MLJ95

Appellant : In Re: a Pleader

Judgement :

Alfred Henry Lionel Leach, C.J.

1. The respondent is a pleader practising at Coonoor. On the 6th February, 1944, a Badaga made a complaint to the Kotagiri Police against another Badaga in respect of an offence alleged to have been committed within the meaning of Section 324 of the Indian Penal Code. The case was investigated by the Sub-Inspector of Police who referred it as undetectable. The complainant then engaged the respondent to file a complaint before the Sub-Magistrate of Coonoor. While the respondent was waiting in the Court for the Magistrate to take up the case, the Additional Assistant Public Prosecutor asked him why he had come to Court. The respondent said that the Sub-Inspector had taken money from the other side and referred the case as undetectable and that the Sub-Inspector would have referred it as false if he had been paid an extra Rs. 50. This statement was, of course, defamatory of the Sub-Inspector and it resulted in a prosecution for defamation. The respondent was fined by the trial Court Rs. 1000 and ordered to undergo six months' rigorous imprisonment in default of payment. On appeal the fine was reduced to Rs. 200 with the alternative of one month's simple imprisonment.

2. In these circumstances, the High Court directed the District Judge of Coimbatore to enquire into the matter under Section 13 of the Legal Practitioners' Act. The respondent was called upon to file a written statement and he did so, whereupon a charge for professional misconduct was framed against him. The learned District Judge found him guilty of the charge and in his report to this Court has suggested that the degree of moral turpitude involved warrants the suspension of his sanad, not permanently, but for a period.

3. The Privy Council in *Advocate-General, Bombay v. Phiroz Rustomji* (1935) 69 M.L.J. 431 : L.R. 62 IndAp 235 : I.L.R. 59 Bom. 676 held that the conviction of an advocate or a pleader of a criminal offence is evidence of the misconduct within the meaning of Section 10 of the Bar Councils Act and it is for the Court to consider whether the disciplinary action called for should be in the nature of a reprimand, suspension or removal from practice. The offence which the respondent committed certainly does involve moral turpitude. He is a member of the legal profession and it was wrong of him to defame the Sub-Inspector in the way he did. At the same time, we consider that his action does not involve such a degree of moral turpitude as to warrant the Court in imposing the severe penalty of suspension from practice. We think that the case may be dismissed with a reprimand.