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In Re: Pleader

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Court : Chennai

Decided On : Feb-21-1927

Reported in : AIR1928Mad18

Appellant : In Re: Pleader

Judgement :

1. The charge against the pleader in this case was that, having received two sums of money amounting in all to Rs. 54 from the defendant in a suit in which he was appearing for the plaintiff he misappropriated it and converted it to his own use. The money was received at the end. of 1923. Many demands were made upon him and he did not pay any attention to them. Ultimately some time in 1926 a complaint was launched under the Legal Practitioners Act against the pleader and he. then undoubtedly paid the money and he also put forward an explanation which the District Judge has found to be untrue, namely, that he had been asked by some relation-it is very difficult to make out which-of his client to keep the money in order that it might be utilized ' in the purchase of stones for the construction of a temple which I think the client's father was supposed to have been building in Sholinghur. Nobody came forward to speak to the story one way or the other. As I say, the learned Judge took the view that it was a mere story invented to stave off the evil day when it came; but it is fair to this man to say that the District Munsif, while not attempting to use it as a justification for what the pleader did, apparently did think that there might have been some vague talk which reached him about the desirability of this money being applied to this

purpose and that, no doubt why he found as he did that the pleader, whom after all he had seen and examined was not guilty of any fraudulent conduct. Nevertheless he quite rightly held that, even on that showing, he was guilty of improper conduct because he has never at any time pretended that he had instructions to withhold the money for that or any other purpose from his own client who instructed him. It has been brought to our notice by Mr. Krishnaswami Aiyangar, who has very judiciously said all that can be said for him and assented to by the Advocate-General that for the whole of the year 1926 while these proceedings were hanging over his head he took out no sanad and therefore suspended himself as it were from pleading in the Court where his practice lay. The District Munsif says that he had before that been practising in the Court for 15 years and' that so far as he could ascertain, there' had been no complaints against him. That appears in the report of the learned District Judge:

The District Munsif reports that the pleader' has been practising in his Court for a period of 15 years and that there has been nothing' against him.

2. None of these matters afford any real excuse for what he did but we are going to take a lenient view of his case for two reasons not to any very considerable extent because the sum of money was trifling, but because he has evinced some sense of propriety by not attempting to take out a sanad and seeking to practise while this matter was hanging over his head and he has thus in a way anticipated any sentence of suspension from practice which this Court might other-wise have passed upon him and in the next place, it may be that he had some muddled idea that these people did not really urgently want their money owing to this vague talk about the temple and that may be sufficient warrant for the finding of the District Munsif that, however his conduct was improper as it undoubtedly was, it was not necessarily' dishonest. On that we are quite prepared to give him the benefit of the doubt. He knew perfectly he had no right to withhold the money in spite of demands, whatever the talk about temples or stories of temples or anything of the kind. The sentence of the Court is that the pleader be severely censured 'for his conduct in this matter but that, having regard to the events that have happened, this Court doss not think it necessary to inflict upon him any further sentence than he has inflicted upon himself of suspension from practice.

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