

In Re: Two Pleaders

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Court : Kolkata

Decided On : Jul-20-1933

Reported in : AIR1933Cal731

Appellant : In Re: Two Pleaders

Judgement :

1. In this case a rule was issued by this Court on two pleaders practising in the District Judge's Court at Sylhet, to show cause why they should not be suspended or dismissed on the ground (among others) that they had been convicted of offences under Sections 145 and 151, I.P.C, as also under Section 3, Ordinance 6 of 1930, and that the offences of which they were convicted imply a defect of character which unfits them to be pleaders. The rule was issued in virtue of the powers vested in this Court by Section 12, Legal Practitioners Act 18 of 1879. The pleaders concerned have not thought it fit to appear before this Court, in showing cause, but have sent statements by way of explanation in writing. The gist of the statements so submitted is that the offences for which they were convicted do not imply any defect of character, inasmuch as they do not involve any moral turpitude. The pleaders have further stated that they have already been sufficiently punished in more ways than one, and that no further action was called for.

2. It appears from the materials before us that the pleaders were convicted for the offence of joining or continuing in an unlawful assembly, knowing that it had been commanded to disperse, and of knowingly joining or continuing in an unlawful assembly of fire or more persons, after it had been commanded to disperse. They

were members of a procession in connexion with what is known as the Civil Disobedience Movement, and were convicted as such, for the offences mentioned above on 6th February 1932; the conviction was affirmed by this Court on 10th February 1933, It further appears that the pleaders were previously convicted in the year 1930, under Section 3, Ordinance 6 of that year, which provided for punishment of a person who by words, either spoken or written, or by signs or by visible representations, or otherwise instigated expressly or by implication, any person or class of persons, not to pay or to defer payment of any notified liability and of a person who did any act with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons in a notified area, in any manner whatsoever. On these materials, regard being had to the nature of the offences for which the pleaders were convicted, there can be no doubt that the provision contained in Section 12, Legal Practitioners Act, is applicable, inasmuch as the expression defect of character' as used in the Section 12 must, in our judgment, be taken to include not only moral turpitude, but also such defect in the character of a pleader, which renders him unfit to be a member of the honourable profession to which he belongs.

3. In the case before us the pleaders were connected with the Civil Disobedience Movement, and were convicted in 1930, under the Ordinance for an offence the nature of which has been specified above; the offences for which they were convicted again in 1932 were committed as members of a procession organized in connexion with the Civil Disobedience Movement. The pleaders were, it appears, supporting an organized resistance to the discharge of liability under the law, and had wilfully broken the law as members of a procession which was commanded to disperse by competent authorities. In view of all this, the pleaders in the case before us, have deliberately placed themselves in such a position as made themselves amenable to the disciplinary jurisdiction of this Court. The offences for which they were convicted, as indicated already, involved serious defect of character, seeing that they were directed against obedience to law, which it is the duty of the Courts and of the members of the legal profession to enforce and maintain. There has been repetition of the offences on the part of the pleaders, involving open and deliberate defiance of law; and there is no expression of regret

for their past behaviour. As was observed by Coutts-Trotter, J., In the matter of First Grade Pleader AIR 1924 Mad 479 (F B):

while Courts will not interfere with, or have regard to any man's political opinions, or opinions on public questions, it is impossible to allow a person who proclaims or practises what is called the doctrine of civil disobedience, to ask to be a part of the machinery of the Courts which exists for the very purpose of the thwarting of civil disobedience.

4. On the facts and in the circumstances of the case before us we have no hesitation in making the rule absolute. The pleaders Messrs. Babus S and G, are suspended from practising as pleaders for the period of six months from 1st August next. The order of suspension is to be communicated to the District Judge of Sylhet as soon as practicable.

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