

Emperor Vs. J. a Pleader

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Court : Kolkata

Decided On : Jun-01-1936

Reported in : AIR1936Cal658,166Ind.Cas.371

Appellant : Emperor

Respondent : J. a Pleader

Judgement :

ORDER

1. We are not prepared to take too severe a view of the conduct of the pleader concerned in this case. The pleader appears to have been a practitioner of about 25 years standing and, as far as can be gathered from the papers before us, he commands a considerable practice. For the purposes of the affidavits which he swore, and in which he went out of his way to make a statement that the facts deposed to by him were true to his knowledge, he did, as a matter of fact, make such enquiry as was open to him to make. From the evidence that has been recorded in this case it appears that in the course of that enquiry the books of the office of the client himself were consulted and when it was found that the moneys were not entered therein and a list was prepared for his use stating the amounts which had not been withdrawn and for which applications for withdrawal had to be made, he bona fide put in the application and swore to the affidavits which had to be filed therewith. There was no dishonesty on the part of the pleader and indeed Dr. Basak appearing on behalf of the Crown has said that there are no materials whatsoever upon which he can contend that the conduct of the pleader was in any

way dishonest. What has been complained of before us and what seems to have struck the learned District Judge, as appears from the letter by which he has forwarded this reference to this Court, is that the carelessness of the pleader was such as required to be firmly dealt with in order that others may not take advantage of such carelessness or other pleaders may not resort to the tactics of colluding with the clients and put in applications for withdrawal of moneys which had already been withdrawn. The learned District Judge has rightly observed in that letter that there was gross negligence and lack of care on the part of the pleader in the discharge of his professional duties and that his conduct amounted to professional negligence which should be taken notice of by this Court, because otherwise pleaders would think that they could safely be careless and collude in matters like this with unscrupulous clients, and he has proceeded to observe further that

it would not be beyond the bounds of possibility that the pleader deliberately turned the blind eye to any check that he might apply at the request of the admittedly guilty law agent who was convicted for misappropriating the money originally withdrawn.

2. So far as the last-mentioned conclusion is concerned, we do not find any materials on the record on which we can say that this particular case in putting forward the six applications which form the subject matter of this case, the pleader deliberately connived at a false claim put forward by his client. The pleader in this particular case had to deal with the very large number of withdrawal applications of which all the others were genuine cases. At the same time, it is quite true that it is expected that when the Court requires the assistance of the pleader for the purpose of enabling it to satisfy itself that the money is due and had not been withdrawn the Court certainly expects a greater degree of care on the part of the pleader. Having regard to all these circumstances, however, we feel that we are not able to hold that the conduct on the part of the pleader amounted to such misconduct as would justify the Court in proceeding to take action under the Legal Practitioners' Act against him. We, therefore, discharge the reference. We hope that the pleader concerned will be more careful in matters of this description in future, and we have no reason to suppose that the present proceedings that have

been taken against him and have been pending for all this time will not serve as a warning to him for that purpose.

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