

In Re: A, a Pleader

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Court : Kolkata

Decided On : Dec-11-1933

Reported in : AIR1934Cal242a

Appellant : In Re: A, a Pleader

Judgement :

Lort-Williams, J.

1. In this case, a Rule was issued by virtue of the powers vested in the Court under 8. 12, Legal Practitioners Act (18 of 1879), calling upon A, a pleader, to show cause why he should not be suspended or dismissed from practice, on the ground that the fact that he had been convicted in two cases under Section 21 of Ordinance 2 of 1932 for disobeying the order of the District Magistrate of Rangpore, and had been sentenced thereunder to rigorous imprisonment for one year, and two years respectively, and that he had been previously convicted in June 1930 under Section 188, I. P. C, implied a defect of character which unfitted him to be a pleader. One of the convictions in 1932 was set aside on appeal. This pleader therefore has been convicted twice, within the last three years, of what amounted to semi political offences. The conviction under Section 21 of Ordinance 2 of 1932 was for leaving the village where he had been ordered to reside. Such an order can only be made if the local Government is satisfied, under Section 4 of the Ordinance that there are reasonable grounds for believing that the person, to be restrained, has acted, is acting, or is about to act, in manner prejudicial to the

public safety or peace or in furtherance of a movement prejudicial to the public safety or peace. The conviction in 1930 was for holding a public meeting in defiance of an order of the Local Government, or the police, prohibiting such a meeting. In all these cases the question arises whether the facts proved, constitute an offence implying a defect of character which unfits the pleader or mukhtear, as the case may be, from practising as such. The question is not free from difficulty. As was stated by Coutts-Trotter, J., In the matter of a First Grade Pleader AIR 1924 Mad 479:

'While this Court 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 part of the machinery of the Courts, which exist for the very purpose of the thwarting of civil disobedience and the enforcement of civil obedience.'

2. It is difficult to draw any distinction between the various kinds of law-breaking, upon which any general principle can be founded. One can imagine cases where the law has been broken on one or more occasions, as for example, with regard to offences under motor-car legislation. These obviously strike one as being different in gravity to offences, such as we are now dealing with, of a semi-political character, which are directed against laws or Ordinances passed for the purposes of preserving the public peace. On the other hand, it may be argued that even offences under motorcar legislation, may result in breaches of the peace. In my opinion therefore no such distinction can be drawn, and the principle upon which we ought to proceed is that where a pleader wilfully breaks the law upon one or two isolated occasions, it may not be necessary for the Court to take any action under this section of the Legal Practitioners Act. Where, on the other hand, it is shown that the pleader has wilfully and habitually broken the law, then the Court may quite reasonably come to the conclusion that his acts imply such a defect of character as to render him unfit for practice as a pleader, and in such a case the Court may dismiss him from practice. Where the acts of the pleader fall midway between the two extremes then the Court may take a more lenient view, and may think it sufficient to warn the pleader, by inflicting upon him a period of suspension or otherwise, that if he persists in breaking or defying the law such conduct will

inevitably lead the Court to the conclusion that he is totally unfit to practise in the Courts which have been established to enforce the law.

3. In the present case, it seems to us, that the pleader's acts fall within the mediate position to which I have referred. He has been prosecuted three times and convicted twice for semi-political offences, and we desire to warn him, that if he persists in these courses, the Court will eventually have to consider the question of dismissing him from practice. We should have thought that a period of six months' suspension would be adequate in this case. But we are informed that the pleader was, in fact, suspended from practice, owing to his inability to obtain a license, from 15th February 1933 to 25th August 1933, a period of a little over six months. Consequently, we think that he has been punished sufficiently and the Rule accordingly will be discharged.

M.C. Ghose, J.

4. I agree.

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