

CIVIL RULE.

Before Mallik and M. C. Ghose JJ.

1934

In re HARENDRANATH BASU.*

March 2, 5.

Legal Practitioner—Improper conduct, What amounts to—Legal Practitioners Act (XVIII of 1879), s. 13—Code of Civil Procedure (Act V of 1908), s. 80.

Where a notice, purporting to be given on behalf of his client under section 80 of the Civil Procedure Code, was signed and served by a pleader of the Sealdah courts on a Subordinate Judge of Alipur, and, at more than one place in the aforesaid notice, the said Subordinate Judge was charged with having misused his powers and also with having wantonly, with intent to harm and disgrace the client, ordered an attachment of his property before judgment, malice and ill-will being imputed to the Judge in the discharge of his duty,

held that the accusations, (coming from a pleader acting on behalf of his client) directed against a judicial officer presiding over a court and which were almost defamatory in character, amounted to grossly improper conduct on the part of the said pleader, in the discharge of his professional duty.

Held, further, that a pleader of experience and of 30 years' standing must be held responsible for the contents of the notice (written out by his client) which (according to the pleader's defence) he had merely signed.

RULE issued under section 13 of the Legal Practitioners Act on pleader.

The facts of the case and the arguments appear from the judgment.

Charuchandra Biswas and *Sateendranath Mukherji* for the pleader.

The Senior Government Pleader, Sharatchandra Basak, and *the Assistant Government Pleader, Roopendrakumar Mitra*, for the Crown.

Cur. adv. vult.

MALLIK J. This Rule was issued on Babu Harendranath Basu, a pleader practising in the courts at Sealdah, to show cause why he should not be dismissed or suspended under section 13 of the Legal Practitioners Act, on the ground of grossly improper conduct in the discharge of his professional duty by giving notice under section 80 of the Code of Civil Procedure upon Babu Kshirodeshwar Banerji, Subordinate Judge at Alipur, a notice which contained highly objectionable words. The notice is

*Civil Rule, No. 112 of 1934, issued by the Full Court.

dated 12th of September, 1933, and was received by the Subordinate Judge on the 13th *idem*. It was signed by Babu Harendranath Basu and it purported to be given on behalf of his client, Ray Bahadur Jogendrachandra Ghose. At more than one place in the notice, the Subordinate Judge was charged with having misused his powers and he was charged also with having wantonly, with intent to harm and disgrace the Ray Bahadur, ordered an attachment before judgment. There can be no manner of doubt that these accusations, coming from a pleader acting on behalf of his client, directed as they were against a judicial officer presiding over a court and which were almost defamatory in character, clearly amounted to grossly improper conduct on the part of Babu Harendranath Basu. Indeed Babu Harendranath Basu, in his explanation, practically admitted that that was so. Babu Harendranath Basu, however, in showing cause, has tried to explain his conduct by saying that he had signed the notice without having read the contents thereof. His story was that one Surendra Babu (full name not disclosed), whom he knew to be a *gomastâ* of Ray Bahadur Jogendrachandra Ghose, produced before him a plain sheet of paper without title-head containing some typewritten matter and told him that the Ray Bahadur had sent the same to him to be signed by him, and Babu Harendranath, who was very busy at the time and had no time to go through the contents of the document except one or two lines at the bottom, signed the document and returned it to Surendra Babu. The question is whether this story can be accepted. I am inclined to think that it cannot. I find it extremely difficult to believe that a pleader having any sense of responsibility—and there is nothing to show that Babu Harendranath had no sense of responsibility in him—should put down his signature on a document containing something about damages without reading the contents thereof—only at the bidding of a *gomastâ* of a

1934

In re
Harendranath
Basu.

Mallik J.

1934

In re
Harendranath
Basu.
Mallik J.

client, although the client was in a sort of *loco parentis* to him. I have, therefore, no hesitation in holding that the pleader Babu Harendranath Basu has been guilty of grossly improper conduct in the discharge of his professional duty and has, therefore, brought himself clearly within the purview of section 13 of the Legal Practitioners Act.

Now the question is what punishment should be imposed on him. On the one hand, the language used by him was highly objectionable, while, on the other hand, there is the fact that he has expressed his unqualified apology for what has been done by him and has also given an assurance that he will never do it again and there is also the fact that he is an old man of 65 and has put in thirty years of practice.

Taking all the facts and circumstances into consideration, I am of opinion that the ends of justice will be satisfied if we suspend him for three months and I would, accordingly, suspend him for that period of time from to-morrow.

M. C. GHOSE J. I agree. The notice under section 80 of the Code of Civil Procedure, which was served upon the Subordinate Judge, is of highly objectionable character. Malice and ill-will are imputed to the judge in the discharge of his duty. The petitioner is a pleader of 30 years' standing and he ought to know that a judge acting officially is not liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his official duty—whether or not he acted within the limit of his official powers—provided that he acted in good faith at the time of doing the act or ordering the act, complained of, to be done. The pleader's explanation that he signed this document without reading it cannot be accepted. He is a pleader of experience and must be held responsible for the contents of the document, which he signed.

Rule absolute.