

## APPELLATE CRIMINAL.

Before Sir John Wallis, Kt., Chief Justice, Mr. Justice Coutts  
Trotter and Mr. Justice Seshagiri Ayyar.

THE DISTRICT JUDGE OF KISTNA (PETITIONER),

v.

C. HANUMANULU (RESPONDENT).\*

1915.  
November 26  
and  
December 2.

*Legal Practitioners Act (XVIII of 1879), sec. 14—Gross contempt of a Subordinate Court by a second-grade pleader by unjustly attacking its impartiality in the discharge of its duties—Jurisdiction of Subordinate Courts to take proceedings under section 14 for all cases coming under section 13—Clause (f), not ejusdem generis.*

In the course of an enquiry before a District Munsif, a second-grade pleader who appeared for one of the parties to the enquiry swore an affidavit and filed the same in Court requesting that that Court should not proceed with the enquiry. The affidavit contained unjust aspersions, imputations and insinuations couched in insulting language charging the District Munsif with rancour and prejudice against the pleader and with a desire to injure him both as a pleader and also as a public man. The Munsif thereupon took these proceedings under section 14 of the Legal Practitioners Act (XVIII of 1879) charging the pleader under section 13, clause (f), of the Act with contempt of Court.

*Held*: (1) that Subordinate Courts have jurisdiction to take proceedings not only under clauses (a) and (b) of section 13, but also under all the other clauses of the section, (2) that clause (f) is not confined to misconduct *ejusdem generis* as those referred to in the previous clauses and (3) that the pleader was guilty of misconduct by his outrageous attack upon the Court in the exercise of its functions.

Their Lordships accordingly suspended the pleader from practice for a period of four months.

The decision of Knox, J., in *In the matter of the petition of Mahomed Abdul Hai* (1907) I.L.R., 29 All., 61 and *In the matter of a Pleader* (1903) I.L.R., 26 Mad., 448, followed.

CASE referred for the orders of the High Court under section 14 of the Legal Practitioners Act (XVIII of 1879) by the Acting District Judge of Kistna in his letter, dated 15th March 1915.

The facts of the case appear from the last paragraph of the judgment.

*C. Sidney Smith* for the Pleadership Examination Board.

*T. Prakasam* for the respondent.

The *Public Prosecutor* for the Crown.

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The following judgment of the Court was delivered by WALLIS, C.J.—In this case the District Munsif of Bezwada has taken proceedings under section 14 of the Legal Practitioners Act (XVIII of 1879) against a second-grade pleader practising in his Court. The charge as framed is for contempt of Court covered by section 13 (f) of the Legal Practitioners Act and a preliminary objection has been taken that a Subordinate Court is not authorized to take proceedings under section 14 in cases which come under clause (f) of section 13 “for any other reasonable cause” and is confined to cases falling under clauses (a) and (b). There was some ground for this view under the corresponding sections 15 and 16 of Act XX of 1865, as the former section gave a power of suspension or dismissal for “fraudulent or other grossly improper conduct in the discharge of his professional duty or for any other reasonable cause” while the Subordinate Court was only empowered to investigate charges of “such conduct as aforesaid” and accordingly it was held in *In the matter of the petition of Gholab Khan*(1) that cases which did not come under “fraudulent or other grossly improper conduct in the exercise of professional duty but under any other reasonable cause” were not covered by section 16 of that Act. Following this decision, HILL, J., in *In the matter of Purna Chandra Pal*(2) expressed the opinion that the words in section 14, “taking instructions except as aforesaid” referred to clause (a) of section 13 and that the words “any such misconduct as aforesaid” referred to clause (b) “fraudulently or grossly improper conduct in the discharge of his professional duty” and that a Subordinate Court had no power to take action in cases falling within clause (c), (d), (e) or (f) of that section. This restrictive construction is not supported by the judgment of their Lordships of the Judicial Committee in *In the matter of Southekul Krishna Rao*(3) to which HILL, J., referred, as in that case no question as to clause (f) of section 13 arose or was considered and it was apparently doubted by KRISHNASWAMI AYYAR, J., in *In the matter of the Second-grade Pleaders*(4). Further as pointed out by KNOX, J., in *In the matter of the petition of Mahomed Abdul Hai*(5) it ignores the fact that clauses (c), (d) and

(1) (1871) 7 B.L.R., 179.

(2) (1900) I.L.R., 27 Cal., 1023.

(3) (1887) 14 I.A., 154.

(4) (1911) I.L.R., 34 Mad., 29 at p. 34.

(5) (1907) I.L.R., 29 All., 61.

(e) were introduced into section 13 by Act XI of 1896. There is no good reason why charges under these clauses should not be investigated in the first instance by the Subordinate Court, and it would be very inconvenient if they could not. Their introduction into section 13 of the Act without any amendment of section 14 goes rather to show as observed by GHOSE, J., in *In the matter of Purna Chander Pal*(1) that section 14 as it stood was deemed wide enough to cover them, and on the whole we agree with the view of KNOX, J., that section 14 covers all the clauses of section 13. We think therefore that the objection that the District Munsif had no jurisdiction to take proceedings against the practitioner in respect of conduct alleged to come within clause (f) of section 13 must be overruled.

In this view it is not very material whether the charges should not have been under clause (b) "for grossly improper conduct in the discharge of professional duty" rather than under clause (f) "for any other reasonable cause" as the facts are fully set out in the charge and the respondent was in no way prejudiced.

Further it is now well settled that clause (f) is not confined to cases of misconduct *ejusdem generis* as those referred to in the preceding clauses but includes other cases of misconduct as well, and may therefore well be considered to include the present case in which the alleged misconduct consisted in the pleader's conduct towards the Court and not to the parties in the case. See *In the matter of Purna Chandra Pal*(1) and *In the matter of a Pleader*(2).

Coming now to the facts, the case arose out of a suit on a promissory note against a zamindar in which the District Munsif gave the plaintiff a decree and sanctioned the prosecution of the defendant for perjury. The sanction was revoked by the District Court, and the zamindar then sued the pleader who had appeared for him at the hearing of the suit for damages and also instituted proceedings against him under section 13 (b) of the Legal Practitioner's Act for alleged grossly improper conduct in the course of his professional duty and in these proceedings the zamindar was represented by the respondent. On 11th December 1913 in the course of the proceedings

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(1) (1900) I.L.R., 27 Calc., 1023 at p. 1027. (2) (1903) I.L.R., 26 Mad., 443.

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the District Munsif insisted on putting certain questions to the respondent as the pleader in the case with a view of satisfying himself apparently that the proceedings were really authorized by the zamindar and on the following day the respondent filed in Court the affidavit which is the subject of the reference. It fills no less than 25 folio pages of print and concludes with the statement that as everything looked inominous (*sic*) for the respondent, he was obliged to file it for the perusal of the High Court and that it was necessary in the interests of justice that the District Munsif should be requested not to adjudicate in the proceedings then before him against the other pleader. It is unnecessary to say much about the contents of the affidavit, as Mr. Prakasam who appears for the respondent has very properly not attempted to justify it and has contented himself with urging in mitigation the respondent's state of mind at the time. It refers at great length to numerous proceedings in which the respondent had appeared before the District Munsif as a litigant or a pleader and is full of aspersions, imputations and insinuations couched in insulting language, charging the District Munsif with rancour and prejudice against the respondent and with a desire to injure him and to make common cause with his political opponents in the Bezwada Municipal Council. It has not been contended before us that there was anything in the District Munsif's conduct on the Bench which could in any way excuse or palliate the respondent's conduct in filing the affidavit, but it was urged in effect that in the case of the respondent ordinary professional rivalries had been aggravated by bitter feuds with other members of the local bar arising out of municipal politics which preyed on his mind and affected his judgment. It is bad enough that disputes of this kind should be allowed to destroy the good relations which ought to exist between members of the bar but it would be far worse, if they were recognized as an excuse for outrageous attacks upon the Court in the exercise of its functions. Giving the fullest consideration to what has been urged by Mr. Prakasam and to respondent's long standing at the bar, we feel bound to mark our sense of his misconduct by suspending him for four months from this date from the exercise of his profession.