

## APPELLATE CRIMINAL--(FULL BENCH).

*Before Sir John Wallis, Kt., Chief Justice, Mr. Justice  
Ayling and Mr. Justice Seshagiri Ayyar.*

IN THE MATTER OF A SECOND-GRADE PLEADER \*

1918,  
September  
30.

*Legal Practitioners Act (XVIII of 1879), sec. 12--Pleader guilty of keeping a  
common gaming house--Suspension of pleader--Procedure for cases under  
sec. 12.*

The conviction of a pleader under section 6 of the Madras Towns Nuisances Act (III of 1889) for keeping a common gaming house 'implies a defect of character which unfits him to be a pleader,' within section 12 of the Legal Practitioners Act, for which the pleader may be suspended by the High Court.

The procedure prescribed for enquiring into charges mentioned in sections 13 and 14 of the Legal Practitioners Act need not be pursued in cases coming under section 12 of the Act.

CASE stated under section 12 of Act XVIII of 1879 by B. C. SMITH, the District Judge of Ganjām.<sup>#</sup>

The District Judge of Ganjām made the following report to the High Court under section 12 of the Legal Practitioners Act (XVIII of 1879):—

"Mr. . . . a Second-grade Pleader, practising in Berhampur, was convicted by the Second-class Magistrate, Ichchhāpuram, in C.C. No. 512 of 1916 of keeping a common gaming house in Berhampur town, an offence under section 6 of the Towns Nuisances Act (III of 1889), and was sentenced to a fine of Rs. 100. The conviction has been confirmed on appeal, and I have dismissed a revision petition presented to me.

In answer to a charge under section 12 Mr. . . . pleads that the conviction was wrong and that a conviction of an offence under the Towns Nuisances Act does not imply a defect of character unfitting him to practise as a pleader . . .

I enclose the records and copies of the judgments and order in the criminal case."

The Hon'ble the *Advocate-General* on behalf of Government.—The conviction must be taken as correct; see *In the matter of Rajendro Nath Mukerji*(1). A pleader guilty of keeping a common gaming house shows a great defect of character which

\* Referred Case No. 6 of 1918 (F.B.).  
(1) (1900) I.L.R., 22 All., 49 (P.C.).

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unfits him to continue as a pleader. Reference was made to *In re Weare*(1), *In the matter of a Solicitor*(2) (a case of a book-maker), *In re Kali Prasanno Bosu Chaudhury*(3) (a member of an unlawful assembly). Gambling is reprehensible according to Hindu Sastras: see Manu, Chapter IX, sections 222, 224 and 225.

*K. V. J. Narasimham* for the pleader.—The pleader expressed regret in the lower Court and may be dealt with leniently.

*K. Srinivasa Ayyangar* represented the Vakils' Association.

The JUDGMENT of the Court was delivered by—

WALLIS, C.J.

WALLIS, C.J.—In this case the District Judge of Ganjām has reported to the High Court that the respondent has been convicted of keeping a common gaming house in Berhampur town, an offence under section 6 of the Towns Nuisances Act (III of 1889) and sentenced to a fine of Rs. 100. The District Judge has followed the procedure prescribed with regard to charges under sections 13 and 14 of the Legal Practitioners Act by issuing a notice, framing a charge and hearing the respondent, although, strictly speaking, that procedure is not required in cases such as this, which come under section 12 of the Act. Section 12 empowers the High Court to

“suspend or dismiss any pleader or mukhtar holding a certificate issued under section 7 who is convicted of any criminal offence implying a defect of character which unfits him to be a pleader or mukhtar, as the case may be.”

The decision of the Privy Council in *In the matter of Rajendro Nath Mukerji*(4) shows that we are not now to re-try the case, but that the question before us is, whether the offence of which the respondent has been convicted implies a defect of character unfitting him to be a pleader. Now, the offence is that the respondent, who is a pleader of more than twenty years' standing and, according to his own showing, a man of considerable property, used the office which he rented for his business as a common gaming house, and was discovered there at night in company with a number of people of all ranks of society, with cards, cowries and other gambling instruments. Lord ESTER, M.R., in *In re Weare*(1), which was the case of a solicitor who had

(1) (1903) 2 Q.B., 439.

(3) (1910) 14 C.W.N., 1073.

(2) (1905) 22 T.L.R., 127.

(4) (1900) I.L.R. 22 All., 40 (P.C.).

been convicted of allowing houses belonging to him to be used as brothels, indicated the considerations which ought to guide the Court in these cases. He referred to the observation of Lord MANFIELD in the earlier case of *In re Brownshill*(1) that it is necessary that members of all branches of the legal profession should stand free from all suspicion, and pointed out that the Court had to consider not only the solicitor's duties to his clients, but also whether his conduct was of such a personally disgraceful character that he ought not to remain a member of a strictly honourable profession, and that other members of that profession ought not to be called upon to enter into that intimate intercourse with him that is necessary between two solicitors, even though they are acting for opposite parties.

We think that the offence of which the respondent has been convicted is one which undoubtedly affects his character, and the learned Advocate-General has shown that this is certainly so according to Hindu ideas. In these circumstances, we are bound to deal with him under the Legal Practitioners Act, and we have carefully considered what the sentence should be. This is the first time that any such case has come before the Court, and it is possible that the pleader was not fully alive, as he ought to have been, to the gravity of his conduct. We think it is sufficient to direct in this case that he be suspended from practice for six months. But this is not to be regarded as a precedent in future cases which may come before the Court. The respondent must also pay the costs of the day.

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WALLIS, C.J.

N.B.

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(1) (1778) 2 Cowp., 829.