

APPELLATE CIVIL—FULL BENCH.

*Before the Hon'ble Mr. A. H. J. Leach, Chief Justice,
Mr. Justice Varadachariar and Mr. Justice Mockett.*

IN RE A PLEADER, MANNARGUDI.*

1937,
December 6.

*Legal Practitioners Act (XVIII of 1879), sec. 13 (b) and (f)—
Pleader instructing bribing of record clerk of a Court—
Professional misconduct, if.*

For a member of the Bar to suggest that an official or any one should be bribed amounts to professional misconduct of a grave nature.

Where, therefore, a pleader wrote a letter to a Vakil's clerk containing instructions to give a bribe to the record clerk of a District Court for supplying information with regard to certain records,

held, that the pleader was guilty of grave professional misconduct.

The fact that proceedings of this nature are instituted as the result of a grudge makes no difference to the gravity of the offence and cannot be pleaded in excuse.

PROCEEDINGS under section 13 (b) and (f) of the Legal Practitioners Act, dated 26th November 1937, issued to a Pleader, Mannargudi, calling upon him to show cause why he should not be dealt with under the disciplinary jurisdiction of the High Court for his grossly improper conduct in the discharge of his professional duty.

The facts of the case are set out in the judgment.

N. Rajagopala Ayyangar for the Advocate-General (Sir A. Krishnaswami Ayyar) for the Crown.—The pleader in this case wrote a letter to a Vakil's clerk in Tanjore asking him to get a copy of the judgment in Small Cause Suit No. 541 of 1925 on the file of the District Munsif's Court, Mannargudi, by offering a bribe to the record clerk of the District Court.

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[The letter Exhibit A was then read.] Giving instructions to bribe the record clerk and get the record clandestinely amounts to professional misconduct on the part of the pleader and he is liable to be punished under section 13, clause (b) or (f), of the Legal Practitioners Act.

A. K. Balakrishnan for the Pleader.—The complainant started the proceedings against the pleader on account of some personal grievance and private grudge. The letter does not show that the pleader intended that the judgment should be obtained secretly. No doubt he suggested that a bribe should be given to the record clerk.

[THE CHIEF JUSTICE.—That is professional misconduct of a grave nature and ought to be dealt with severely.]

Such a practice is common especially in the mofussil. He sincerely repents for writing the letter. The pleader has been practising at the Bar for the last twenty-five years and has an unblemished record. He is aged fifty-six years and wants to retire shortly. So, he may be dealt with leniently with a warning.

K. Sundararaja Ayyangar for complainant.

LEACH C.J. The JUDGMENT of the Court was delivered by LEACH C.J.—A Pleader practising in the Court of the District Munsif of Mannargudi has been charged with professional misconduct and the District Judge of West Tanjore has submitted to this Court his report on the inquiry. The charge against the respondent was that he wrote to one Ramachandra Ayyar, a Vakil's clerk at Tanjore, to obtain surreptitiously a copy of the judgment in Small Cause Suit No. 541 of 1925 on the file of the District Munsif's Court, Mannargudi, by offering some inducement or bribe to the record clerk of the District Court. The learned District Judge has held the charge to be proved, but in the circumstances of the case has suggested that a suspension for a period of two or three months or a severe warning would meet the case.

The letter on which the complaint was based reads as follows :

"Plaintiff's witness, K. Sambasiva Ayyar (Ettakudi Sambu). In the judgment of the above suit, it has been said that Sambu has given false evidence and that he is not honest. So the judgment in the said Small Cause Suit No. 541 of 1925 is necessarily required. Sambu has been committed to the Court of Session, Tanjore. The case is posted for hearing on 31st August 1936 in the Court of the Assistant Sessions Judge. Can we get the above judgment? Give something to the record clerk and ascertain. If you write to me that the above judgment can be got, I shall at once send there Sakti Ammal with money for expenses. Please write a reply to me regarding the above judgment before the coming Tuesday or Wednesday. Let no one know that I have written this letter. Please at once make enquiries in Court and write a reply to me."

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We are unable to read this letter as meaning that the respondent was intending to obtain a copy of the judgment referred to surreptitiously. But it certainly does contain instructions to the Vakil's clerk to give to the record clerk a bribe for supplying information with regard to the record. For a member of the Bar to suggest that an official or any one should be bribed amounts to professional misconduct, and professional misconduct of a grave nature. The fact that bribes of this nature have been given by others is no excuse. In this case the learned District Judge has suggested that a lenient view should be taken because the respondent has been a member of the legal profession for twenty-five years and has hitherto held an unblemished record. We will accept this recommendation of the learned District Judge and in view of the past record of the respondent we will not impose the penalty which the offence deserves. We consider that in this case a suspension from practice from now until the end of

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January 1938 will be sufficient, and the respondent will be suspended for this period. But we wish it to be clearly understood that we regard offences of this nature as being grave offences and in future the punishment will be made to fit the offence. I will add that the fact that proceedings of this nature are instituted as the result of a grudge—as appears to be the case here—makes no difference to the gravity of the offence and cannot be pleaded in excuse.

V.V.C.

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1937,
 December 6.

ABUBACKER LABBAI CHINNATHAMBI ROWTHER,
 PETITIONER,

v.

MADARSA LABBAI AND ANOTHER, RESPONDENTS.*

Indian Stamp Act (II of 1899), Sch. I, arts. 40 and 57, corresponding to arts. 33 and 46 of the Madras Stamp Amendment Act of 1922—Order of Court under Provincial Insolvency Act (V of 1920), sec. 21—Security bond in favour of Sheristadar of the Court by sureties—Sureties hypothecating immovable property and binding themselves to the Sheristadar that an insolvent would attend when called upon—Stamp duty on such bond to be calculated under art. 40 and not art. 57, Sch. I.

On a reference under section 57 of the Indian Stamp Act by the Board of Revenue,

held, that a security bond for Rs. 4,500 executed by two sureties in pursuance of an order of a Subordinate Judge under

* Referred Case No. 4 of 1936.