

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Heaton.

In re KALIDAS J. JHAVERI.

1919.

November
10.

Contempt of Court—Publication of proceedings in pending cases—Publication not permissible until the case comes on for hearing—Pleaders, duty of—Practice and procedure.

All proceedings in cases pending before a Court of justice are privileged; they must not be published until the case comes on for hearing before the Court.

THESE proceedings were a sequel to the case of *In re Jivanlal Varajrai Desai* and others reported at page 418 *ante*.

The proceedings arose out of a letter which the District Judge of Ahmedabad addressed to the Registrar of the High Court of Bombay, a copy of which letter was furnished by the High Court to the respondents in the case of *In re Jivanlal* and others in order to enable them to show cause against the notices issued to them under the Court's disciplinary jurisdiction.

The present respondent, who was one of the respondents in that case, obtained a copy of the letter and gave it to M. K. Gandhi, the leader of the Satyagraha movement and editor of the "Young India." The latter published the letter and commented on it in his newspaper whilst the case was *subjudice*.

His Lordship the Chief Justice disapproved of the publication of the letter whilst the case was pending and desired to be informed of the name of the respondent who was responsible for the publication.

The present respondent informed the Registrar of the Bombay High Court that he had obtained a copy of the letter from one of the other respondents; that he did not know that it was a private document or a

document supplied for private information; that he had handed it to M. K. Gandhi for advice; and that he had neither brought about its publication nor prevented it.

The respondent was asked to attend the High Court on the 10th November 1919.

The respondent appeared in person.

MACLEOD, C. J.:—Mr. Jhaveri, a pleader practising at Ahmedabad, was one of the respondents against whom notices were recently issued in consequence of a letter which was addressed to the Registrar of the High Court by Mr. Kennedy, the District Judge of Ahmedabad. After the notices had been served, the respondents asked for inspection of Mr. Kennedy's letter, and they were allowed to receive copies of that letter. I should have thought that any pleader ought to have known that it was contrary to the rules of the profession, and contrary to the duty which he owed to this Court, to show that letter to any outsider, or give copies of that letter to any outsider. The respondent, Mr. Jhaveri, obtained a copy of this letter, which, I may remark, was a private letter written by the District Judge to the Registrar, and therefore, the private property of the Court until the proceedings had become public. Mr. Jhaveri handed a copy of that letter to Mr. Gandhi, who he knew was the editor of "Young India." Mr. Gandhi published that letter in his paper, and also commented on it. It is quite true that Mr. Jhaveri had nothing to do with that. But he must have known that when he handed the letter to a journalist that journalist would make such use as he thought proper of that letter, subject to the rules which he considered governed the publication of such matters by journalists. In his letter of explanation to the Court, Mr. Jhaveri writes that he saw no impropriety

in handing the letter to Mr. Gandhi. He neither brought about its publication, nor did he prevent it. After what has passed to-day between Mr. Jhaveri and the Court, we trust that he will now see that it was most improper on his part to have handed that letter to Mr. Gandhi. He might have shown it to Mr. Gandhi as a leader of the Satyagraha movement in order to take his advice. But if he did so, he ought to have especially stipulated that it was shown to Mr. Gandhi as his private adviser, and not as a journalist, and he should have specially prohibited Mr. Gandhi from making any use of that letter as a journalist. It is certainly strange that the respondent should not have seen the impropriety of his action. He has told us that it is not unusual in the mofussil for papers placed on the file in certain proceedings to be published before the proceedings are made public in Court. If that is the practice in the mofussil, the sooner it is stopped the better. All proceedings in cases pending before a Court of justice are privileged, and they must not be published until the case comes on for hearing before the Court. It is certainly desirable that pleaders who go out to practise in the Districts should feel that they continue to be under the restraining influence of the leading members of the profession practising in Bombay. I am quite sure that nothing of this sort would ever have occurred in Bombay, and Mr. Jhaveri, if he consults any of the learned pleaders who are sitting in Court, will be told that he had no business whatever to have given a copy of this letter to a person in Mr. Gandhi's position, unless he took precautions that it should not be published until the notices were heard in Court. Such conduct was particularly disgraceful in this matter because the proceedings were between Mr. Jhaveri and the Court itself in which the Court was dealing with his Sanad which might have

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been suspended or taken away from him, and therefore, he should have been all the more careful not to do anything in the course of the proceedings which might give the Court further cause for dealing with his Sanad. However, we think now, that this expression of opinion on our part should be a lesson to Mr. Jhaveri in the future, and ought to be notice to other practitioners in the mofussil of what we consider is the proper course to follow in such cases, and, therefore, we content ourselves in this case with severely reprimanding Mr. Jhaveri. As I said at the commencement, I am very glad that he has had the courage to confess that he was the respondent who committed this breach of privilege. He has thereby saved the other respondents the trouble of coming to Bombay, as they would have had to do, if he had not written to the Registrar, for it was necessary that what we thought about this matter should be said in open Court.

Order accordingly.

R. R.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Heaton.

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BALUBHAI HIRALAL, MINOR, BY HIS NEXT FRIEND JAGUBHAI HARI-
BHAI AND OTHERS (ORIGINAL PLAINTIFFS), APPELLANTS v. NANABHAI
BHAGUBHAI AND ANOTHER (ORIGINAL DEFENDANTS) RESPONDENTS.^a

Hindu law—Breach of contract of marriage—Out of pocket expenses incurred during betrothal, liability to pay.

Plaintiffs who were father and son sued to recover a certain amount as damages for a breach of contract of betrothal. Defendants contended that the retraction was necessitated on account of ill-health of the bridegroom. Both the plaintiffs having died during the pendency of the proceedings, their representatives in interest sought to recover from the defendants the out of pocket expenses which the plaintiffs had incurred while the betrothal was in