

Emperor Vs Rajani Nath Bhattacharjee and Others

Court: Calcutta High Court

Date of Decision: Aug. 22, 1930

Acts Referred: Legal Practitioners Act, 1879 " Section 13(f)

Citation: AIR 1931 Cal 706

Hon'ble Judges: M.C. Ghose, J; Guha, J

Bench: Full Bench

Judgement

Guha, J.

This is a reference by the learned District Judge of Sylhet, forwarding a report by the Munsif of Habiganj, under the Legal

Practitioners Act, with respect to four pleaders. The charge drawn up against the pleaders was as follows:

Whereas it appears that you Babu Rajani Nath Bhattacharjya, Babu Bipin Behary Roy and Babu Kshitish Chandra Chakravarti, pleaders for the

plaintiff, and Babu Jogendra Chandra Deb, pleader for the defendant, engaged as pleaders for the plaintiff and the defendants respectively by

vakalatnamas for conducting and pleading in Title Suit No. 264 of 1930, on behalf of the plaintiff and defendants respectively, and that in

pursuance of a concerted movement of the pleaders to boycott the Courts today, abstained from appearing before the Court on behalf of the

plaintiff and defendants respectively to conduct and plead in the aforesaid suit today, in spite of the fact that the said suit was being heard from day

to day from 30th April 1980 and was adjourned today for farther hearing, and whereas you have thereby committed an act of deliberate

negligence amounting to a grossly improper conduct in the discharge of your professional duties.

2. Notice of the charge was given to the pleaders, and they showed cause, filing written statements in support of their respective cases, by way of

explanations. In support of the case stated in the written statements filed by three of the pleaders , Babus Rajani Nath Bhattacharyja, Bipin Behary

Roy and Kshitish Chandra Chakravarty, there was an affidavit filed in Court, sworn by one Dina Nath Chakravarty, an officer and ammukhtear of

Dinabandhu Roy, the plain- tiff in Suit No. 251 of 1930. The pleaders concerned did not, adduce any further evidence before the Munsif. It

appears that seven witnesses were examined on behalf of the Government.

3. The report of the Munsif was that the pleaders were guilty of grossly improper conduct in the discharge of their professional duties. The learned

District Judge in forwarding the report of the Munsif to this Court, has expressed the opinion that the findings of the Munsif were correct, and that

the pleaders were of grossly improper conduct in the discharge of their professional conduct, in absenting themselves from the Court on 7th May,

1930; and has recommended that the pleaders be suspended for such term as this Court may think proper.

4. The explanations submitted to the Court by the four pleaders were not the same. One of the pleaders, Babu Jogandra Chandra Deb, stated that

there was not a concerted movement to boycott the Courts on 7th May 1930, and that it not a fact that he did not appear in Court on that day for

that reason. The reason for his not appearing in Court was stated as follows:

I received the shocking news of the arrest of Mahatma Gandhi, the greatest man of the world, whom I revere very much. The news gave my

feeling such a rude shock that I was not in a mood to undertake any work. My client also came to know of the fact in proper time, and considering

the state of my mind, did not insist on attendance on his behalf.

5. The other three pleaders, Babus Rajani Nath Bhattachariya, Bipin Behary Roy and Kshitish Chandra Chakravarti explained their conduct by

stating that there was no concerted movement to boycott the Courts and their non-appearance in Court on the particular day was not due to any

such concerted movement; that under the terms of the vakalatnamas by which they were engaged by their clients, they were not bound to appear

unless daily fees agreed between them and their clients" ammuktear, who had appointed them, were paid; this am-muktear had discharged them

from their duties in the morning of the day in question. It may be noticed in this connexion that one of these three pleaders, Babu Bipin Behary Roy,

stated in his written explanation before the Munsif, that he was engaged by the am-muktear of the client only for the purpose of assisting the senior

pleader by doing some particular kind of work, to which statement a further reference in detail, will be made hereafter. The affidavit of Dina Nath

Chakravarti, the am-muktear of the clients, to which reference has been made already, supports the case stated by the three pleaders with the

exception of the special circumstances appearing in the explanation of Babu Bipin Behary Roy.

6. On the materials placed before him, the Munsif has come to findings which are entirely against the pleaders, and as indicated already, the

learned District Judge in forwarding the reference made by the Munsif to this Court, has expressed agreement with the findings arrived at by the

Munsif. The whole of the evidence has been placed before us, and we have gone through the explanations submitted by the pleaders with care and

attention, and we have no hesitation in coming to the conclusion as the Munsif has done, that the circumstances disclosed in the evidence clearly

indicate that the pleaders concerned had acted in pursuance of a concerted movement to boycott the Courts on 7th May 1930, with reference to

which there was and could be no resolution by the Bar Association at a formal meeting. We are further satisfied from the materials before us that

the arrangement appearing from the statements by the pleaders, and which is supported by an affidavit filed in Court, so far as the case of three of

them are concerned, was a part of the concerted action on the part of the pleaders to boycott the Courts on the day in question, after obtaining the

approval of the clients in the concerted action of the pleaders. The pleaders had collectively agreed upon abstention from Court, and had made

their clients agree to the same. According to the Munsif, the pleaders had failed to discharge their duties towards their clients, regard being had to

the nature of the work that was expected to be done by them on 7th May 1930. They had failed to protect the* interest of their clients on that

particular day of the hearing of the case entrusted to their charge; they had also failed, as the Munsif has pointed out in his report, to assist the

Court in the discharge of its functions, by rendering assistance to it, for doing justice in the case. The pleaders, it appears to us, had resorted to a

form of device for the purpose of boycotting the Courts, and for the purpose of obstructing the administration of justice.

7. With reference to the reason stated by Babu Jogendra Chandra Deb, one of the pleaders, for his abstention from Court on the day in question,

it may be said that no exception could be taken to his not being in a mood to undertake any work on 7th May 1930, and his client not having

insisted on his attendance in Court on his behalf. The fact however remains that he deliberately absented himself from the Court, along with other

pleaders of the Habiganj Bar, and had given no intimation to the Court before which he was to appear that day, in a partly heard, complicated, and

important case, of his inability to conduct the case, and get the case postponed in the interest of his client, and in the proper discharge of his duty to

the Court. The circumstances of "the case indicate that Babu Jogendra Chandra Deb"s abstention from Court was also due to the concerted action

of a large number of pleaders at Habiganj, who determined upon observing a hartal on 7th May 1930, and to boycott the Courts, so that the

Courts might not carry on the day"s work. In this view of the matter, the case of Babu Jogendra Chandra Deb does not stand on a footing different

from that of the other pleaders.

8. One of the pleaders, Babu Bipin Behari Roy, as has been mentioned already, finds it an extenuating circumstance in his having been engaged as

a junior for the purpose of doing ""job works"" and not any ""serious work in the case,"" whatever that might mean; and he wants to avoid

responsibility by stating that he had taken down ""short notes while witnesses were being examined."" The am-muktear, Dina NathChakravarty, who

by an affidavit attempted to support all the three pleaders for the plaintiff in their endeavour to avoid all responsibility to their clients, did not come

forward with a statement in support of the special features mentioned in the explanation submitted by this pleader, and on the facts and in the

circumstances appearing from the materials before us, it is impossible to differentiate the case of Babu Bipin Behary Roy from the cases of the

other pleaders.

9. The case before us discloses that there was a concerted action by a large majority of pleaders at Habiganj, to boycott the Court on a particular

day, in protest against an alleged wrong; and these pleaders constituted themselves the authority to adjudge on their alleged grievance and had

determined, as amongst themselves to impede the administration of justice, by a collective abstention from Court. They had deliberately failed in

their duty to their clients, and their duty towards the Court. Even if the clients, for some reason or other, had absolved the pleaders from their duty

to themselves, in respect of the case entrusted to them, which was one in which the Court required the assistance of trained lawyers, placed in

charge of the same, the duty of the pleaders to the Court, as officers of the Court, representatives of their clients, appointed to protect their

interests, and to assist the Court in the proper discharge of its duties, remained. The conduct of the pleaders was highly reprehensible, as it was a

deliberate attempt to boycott the Court, and to obstruct the administration of justice; and more so because of the device resorted to, in having the

concurrence of the clients in the action they had determined upon. That the case referred to this Court is within the purview of Section 13 (f), Legal

Practitioners" Act, admits, of no doubt; and in view of the fact that the pleaders neglected their duty towards their clients in rendering assistance to

the Court, on 7th May 1930, Clause (b), Section 13, is also applicable to this case. We are satisfied on the materials before us, that the charge

against the pleaders has been made out. In our judgment, the case is one to which the observations of Sir Asutosh Mookerjee, J., made in the case

of Emperor Vs. Babus Rajani Kanta Bose and Another, Babus Rajani Kanta Nag and Another, Babu Annada Charan Roy and Babu Surendra

Kumar Nag, , are applicable with great force: the pleaders appear to be lamentably deficient, when tested from the standpoint of the honour and

dignity, which we are accustomed to associate with gentlemen who claim the position and prestige of members of the legal profession, whose duty

it is to use their influence so that the administration of justice might not be brought into contempt, who should be actuated by a keen sense of duty

and loyalty to the Courts, and to their clients, and whose paramount duty was to co-operate with the Court, in the orderly and pure administration

of justice.

10. The charge against the pleaders being made out, and the reference being accepted, the conduct of the pleaders calls for disciplinary action. In

spite of repeated warnings given by this Court, that conduct of pleaders as disclosed by the materials on the records of the case before us, will not

be permitted, on account of some alleged grievance in furtherance of some movement political or otherwise, and in spite of warning that such

conduct would entail serious consequences to those concerned, the four pleaders in the present case, had joined in a movement, the object of

which was So paralyze the administration of justice, by failure to perform their duty to the Court, and their duty to the clients. In the circumstances

of the case, keeping in view the interests of the administration of justice by Courts, and bearing in mind the interests of discipline in Courts we

direct that the four pleaders, Babu Rajani Nath Bhattacharjya, Babu Bipin Behary Roy, Babu Kshitish Chandra Chakravarti and Babu Jogendra

Chandra Deb, be suspended from practice as pleaders, for the period of three months. It appears that the pleaders were placed under suspension,

on 26th June 1930, by order of the District Judge; the period of suspension directed by us may be counted from that date.

M.C. Ghose, J.

11. I agree.