

(1922) 01 CAL CK 0025

Calcutta High Court

Case No: Civ. Rev. Nos. 6 and 14 of 1921

In Re : Tarini Mohan and others

APPELLANT

Vs

RESPONDENT

Date of Decision: Jan. 6, 1922

Judgement

Sanderson, C.J.

This was a reference by the learned District Judge of Dacca, dated the 15th August 1921, with which he forwarded a report by the learned Subordinate Judge of the 4th Court, of proceedings taken by him under S. 14 of Legal Practitioners Act, 1879, against one Tarini Mohan, Barari, a pleader of that Court. The report of the learned District Judge in material parts was as follows:

The circumstances that have given rise to these proceedings are similar to those that were the occasion of proceedings against ten other pleaders, regarding whom I have, this day, made a report, and I need not restate them. It is sufficient to say that Tarini Mohan Barari has complied with the resolution passed by the Dacca Bar Association on the 17th June last, asking its members not to appear as pleaders before Babu Pasupati Bose.

The Defendant pleader had presented a plaint in the Court of the Subordinate Judge which was found to be defective. The pleader was called to explain the circumstances, but he refused to appear before the Court. The Subordinate Judge accordingly ordered the plaint to be returned. The pleader sent a telegram to his client to inform him of the order, and the latter, having come to Dacca, instructed him to make a petition to the Court for a reconsideration of the order. The pleader, however, refused to do so, and the Plaintiff was compelled to appear in Court himself, and later on by a Mukhtear. The Plaintiff was called as a witness in the present proceeding, and his evidence has been discussed by the Subordinate Judge. It appears that he endeavored to screen the pleader and go back on the first statement he made to the Subordinate Judge; but there can be no doubt that his first statement was the true one. That his interests were prejudiced by the pleader's

refusal to appear on his behalf is evident from the fact that the plaint was ordered to be returned and he had to appear on his own behalf before the Subordinate Judge, and, later on, by a Mukhtear.

I am of opinion, therefore, that the Subordinate Judge is right in his view that the pleader has been guilty of professional misconduct and should be punished with suspension.

2. The Plaintiff's statement referred to in the report is as follows:-

I have come to Dacca on receipt of a telegram from ray pleader Tarini Mohan Barari. I had seen him on arrival. He told me that the Court passed an order on my plaint directing its return. I asked him to appear before the Court and move for a reconsideration of the order. He told me that as other pleaders have not been appearing, he would not. I, therefore, throw myself entirely at the mercy of the Court. I asked him why he did not explain before the Court the state of things why the suit was triable before the Court. He answered that he and other pleaders were determined not to appear in this Court I have been put to severe loss for his conduct.

3. The notice which was served on the pleader was as follows: "Whereas it appears that you filed a plaint registered as No. 40 of 1921 in a form that it was not entertainable by this Court, that you did not willfully appear before the Court though repeatedly called, to explain the circumstances under which it was filed and might be entertainable in this Court, that you did not willfully appear to take back the plaint though directed to do so or sign the order as required, that you would not willfully appear before this Court on the request of the Plaintiff for moving the Court for a reconsideration of the order of return passed on account of your neglect of duty and whereas your above conduct amounts to grossly improper conduct in the discharge of your professional duty as contemplated by the Legal Practitioners Act, sec. 14, you are hereby charged as follows:-

1. That the attitude taken up by you towards the Court is insulting and highly improper.
2. That you did not willfully and without lawful excuse appear before this Court on behalf of the Plaintiff in Suit No. 40 and thus put him wrongfully to considerable difficulties and exposed him to serious harm.
3. That you are guilty of grossly improper conduct in the discharge of your professional duty as contemplated in sec. 14 of the Legal Practitioners Act.

You are hereby given notice that the above charges will be taken into consideration on 16th July next.

4. The pleader filed a statement containing many contentions. The only paragraph to which, in my judgment, it is necessary for me to refer under the circumstances,

which have happened since the hearing of this reference was begun is No. 17 which is to this effect.-

That this objector believes that the institution of this proceeding against him is the result of an afterthought and is part of a series of proceedings instituted against him and certain other members of the Bar with a view to put them into difficulties and put pressure on those members who are not inclined to appear in this Court from a sense of self-respect and out of apprehension of being insulted in Court in consequence of this Court's uniform ill-treatment of members of the Bar and particularly the gross insult offered to Babu Rabindra Nath Chatterjee, a pleader, by the Court on the 15th June last and as such those proceedings are not bond fide.

5. It appears that on the 15th June 1921 an incident had occurred in the Court of the Subordinate Judge in which a pleader, Rabindra Nath Chatterjee, was concerned.

6. It is not necessary for me to enter into the details of that incident at the present moment: it is sufficient to say that it was contended on the one side that the learned Subordinate Judge had behaved rudely towards the pleader, while on the other side it was said that the pleader would not abide by the order which the learned Judge had made and that he persistently and improperly interrupted and disturbed the learned judge while he was engaged, in hearing arguments in another case. I do not intend to express an opinion as to the merits of this incident and I have purposely abstained from describing the details thereof.

7. It appears that on the 17th June 1921, a resolution was passed by the Bar Association, which was as follows:-

Considering the fact that the insult inflicted by Babu Pasupati Bose, fourth Subordinate Judge, on Babu Rabindra Nath Chatterjee is really an insult to the whole Bar, it is resolved that (1) Criminal case and (B) Civil suit claiming dars-ages not exceeding Rs. 10,000 be instituted against the Subordinate Judge and the whole expense be borne by the Bar Association and that members be individually requested not to appear before him any more.

8. There is no doubt that it was in consequence of this resolution that the pleader, who is mentioned in the reference, and other pleaders refused to appear before the learned Subordinate Judge.

9. After the learned Standing Counsel had opened the facts of the reference and the hearing had proceeded for sometime, the Court intimated to the learned Vakil for the pleaders that even assuming that the learned Subordinate Judge was in the wrong with reference to the above-mentioned incident, as to which the Court expressed no opinion, that could not be any justification for the conduct of the pleaders. The result was that the hearing of the reference was adjourned for a week in order that the learned Vakils appearing for the pleaders concerned in this and the other references might consult their clients many of whom were not then present in

Court. At the adjourned hearing the learned Vakil appearing on behalf of the pleader in this reference expressed his client's regret for the course which he had adopted, stating that he recognized that, if there was a cause of complaint against the learned Subordinate Judge, a representation should have been made to the High Court. At the same time the learned Vakil asked that an enquiry should be held by this Court into the matter. It was pointed out that this was a matter for the Chief Justice and the Judges of the Court and not for the Bench sitting to hear the reference, and that as far as this Bench was concerned, the expression of regret could not be accepted, unless it was unconditional and unqualified. The learned Vakil then intimated that his expression of regret on behalf of his client was intended to be complete and unconditional.

10. The learned Vakil appearing for the other pleaders, concerned in this reference No. 6 of 1921, which involved the miscellaneous cases Nos. 23, 26, 41, 45, 46, 29, 37, 22, 31, 25 and 27 of 1921, and the learned Counsel appearing for the pleaders in reference No. 14 of 1921 associated themselves with the expressions of regret which had been made by the learned Vakil. We then intimated that in view of these expressions of regret, we did not think it necessary to proceed further with the hearing of the references and our judgment was reserved.

11. Having regard to the unqualified expression of regret which have been made to the Court on behalf of the pleaders in question, we do but consider it necessary to take any steps upon the reference.

12. This however must not be misunderstood. It must not be assumed that the Court regards the action of the pleaders as a matter of little importance.

13. On the contrary we regard it as a very serious matter. The pleader deliberately abstained from attending the Subordinate Judge's Court and took part in a concerted movement to boycott the learned Judge's Court, a course of conduct which cannot be justified or tolerated.

14. The pleaders had duties and obligations to their clients in respect of the suits and matters entrusted to them which were pending in the Court of the learned Subordinate Judge.

15. There was a further and equally important duty and obligation upon them, viz., to co-operate with the Court in the orderly and pure administration of justice. By the course which they adopted, the pleaders violated and neglected their duties and obligations in both these respects.

16. We desire to make it clear that such conduct cannot and will not be tolerated- In this case if the pleaders thought they had a just cause of complaint, they had two courses open to them: to make a representation to the learned District Judge or to the High Court. They took neither of these alternatives, but they adopted the high-handed and unjustifiable course of boycotting the learned Subordinate Judge's

Court.

17. We have decided to take no further action on these references in the hope and belief that the warning, which we now give, will be sufficient to prevent any recurrence of conduct of a similar nature.

18. At the same time we desire to make it clear that if our warning does not have the desired effect, and if such conduct, as I have referred to, is repeated, the consequences may be of a serious nature to those concerned.

19. The request for an enquiry, which has been made, will be laid in due course before the Court. In this connection it is desirable to add that the learned District Judge did hold an enquiry on his own initiative, the result of which he reported to the High Court, and it is sincerely to be regretted that the efforts, which he made in the interests of the administration of justice to bring about an amicable settlement of the matter, did not meet with success.

20. The Rules, which are now pending before this Court, will follow the event of the Rule, which we have already disposed of and will be discharged.

21. We suggest that the proceedings, which are pending in the lower Court in connection with these matters, should be dropped provided that an expression of regret is made by the parties concerned.

22. It is of course a condition of the course taken by this Court in these proceedings that the pleaders, if they desire to continue practicing in their profession, will forthwith resume work in the Court of the learned Subordinate Judge.

Woodroffe, J.

23. I agree.

Mookerjee, J.

24. I agree.