

*Judgment of the Lords of the Judicial Committee of the Privy Council in the Appeal of Narayan Jaggonath Bhidé from an Order of the High Court of Judicature at Bombay; to be delivered 8th December, 1875.*

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Present :

SIR JAMES W. COLVILE.

SIR BARNES PEACOCK.

SIR MONTAGUE SMITH.

SIR ROBERT P. COLLIER.

THIS is an Appeal against an Order of the High Court of Bombay, suspending for two years Narayan Jaggonath Bhidé from practising as a pleader or vakeel in the High Court of Bombay, and in all other Courts, criminal and civil, subordinate to the said High Court.

The material facts of the case are as follows :—

Narayan Jaggonath Bhidé (hereafter called Bhidé) was a pleader or vakeel of the High Court of Bombay. He also held Sunnuds entitling him to practise as a vakeel or pleader in the District Court of Poonah and other District Courts. He practised chiefly at Poonah, in which district he held the office of Government Pleader.

In October, 1872, he presented a petition to Mr. Pinhey, then the District Judge of Poonah, who was subsequently transferred to the High Court, alleging that his brother-in-law Narayan Maeshwar Pendse, otherwise called Bala, was of unsound mind, and praying that a guardian of his person and a manager of his estate might be appointed.

On the 3rd of May, 1873, Mr. Pinhey gave judg-

ment rejecting the application on the following grounds :—

“ 1. The alleged lunatic Bala Pendse is not of unsound mind, and incapable of managing his affairs within section 2 of Act 35 of 1858, and also :

“ 2. Even if the Court entertained doubts regarding the soundness of mind of the said Bala Pendse, it would be improper in the peculiar circumstances of this case for the Court to grant the application of the Government Pleader, who is not merely acting under the authority with which he is officially clothed by section 3 of the Act, but is also detaining Bala Pendse's wife in his own house against the wish of her husband and of her husband's nearest relatives.”

This Judgment was confirmed on Appeal in September, 1864.

On the 3rd of May, 1873, the day on which he delivered his Judgment, Mr. Pinhey made a written complaint to the High Court to the effect that some three months before Bhidé had threatened and insulted him with reference to the matter then pending before him.

Thereupon an order was made, calling upon Bhidé to show cause why he should not be dismissed from the office of Pleader.

On further consideration the High Court thought fit to require some explanation from Mr. Pinhey of his delay in bringing the alleged misconduct of Bhidé before them.

Mr. Pinhey gave his explanation of this by letter, and in that letter made an accusation against Bi dé of adultery with Bala's wife; an accusation which their Lordships think it due to Bhidé to say, does not appear to have been warranted by evidence.

The High Court not deeming the explanation satisfactory, discharged the rule, without calling upon Bhidé to show cause against it; and on his complaining of the charge of adultery, informed him that when the case came on for Appeal, he would have an opportunity of vindicating his character.

Pending the hearing of Bhidé's petition before mentioned, Bala instituted a suit against his wife and Bhidé to recover possession of his wife.

This suit came on for hearing before the joint subordinate Judge of Poonah, on the 21st of July 1873, and it is for his misconduct with reference to this suit that Bhidé has been suspended.

The question of Bala's unsoundness of mind was

tried again, the Judgment of Mr. Pinhey, in the lunacy application not being in evidence ; and among other evidence, witnesses were called to prove adultery between Bhidé and Bala's wife, to the reception of which Bhidé objected as irrelevant to the issue. Bhidé was called as a witness on behalf of the plaintiff, and examined in chief by the plaintiff's vakeel. Upon the conclusion of which examination, he claimed to cross-examine himself ; for although he employed a vakeel, he appears to have mainly conducted his own case and that of the co-defendant.

Undoubtedly, Bhidé would have been entitled to explain the evidence which he had given in his examination in chief, to add to it any facts within his knowledge relevant to the defence, and to deny the charge of adultery ; and if his denial of this charge had been made with some warmth it might have been excused. But in their Lordships' view, what Bhidé calls his deposition was not a deposition in any proper sense of the word. They are of opinion that he made his character as a witness a pretext for addressing to a large crowd of bystanders, in defiance of the remonstrance of the Judge, a violent and abusive tirade against Mr. Pinhey altogether irrelevant to the cause, as he must have perfectly well known.

He accused Mr. Pinhey of immorality and profligacy ; of being party to a conspiracy for instituting the action ; and, further, of corruption in his judicial office, in that he endeavoured to induce him (Bhidé), as Government Pleader, to neglect his duty in the prosecution of a criminal. This last accusation related to a matter in which he was professionally engaged as Government Pleader, and he supported it by alleged communications held by him in that character with the Judge.

The subordinate Judge forwarded a Report of Bhidé's conduct and statements to Baron Larpent, who had succeeded Mr. Pinhey as District Judge of Poonah, for his perusal, and transmission to the High Court, whereupon Baron Larpent called on Bhidé for an explanation. Their Lordships agree with the High Court in regarding this explanation (as it is termed) as a considerable aggravation of the original offence. Bhidé renews and adds to his attacks on Mr. Pinhey. He sends copies of anonymous and scurrilous letters which appeared in a

local newspaper, to which he appends "a key," and makes further charges of corruption and malversation against Mr. Pinhey, founded on his professed knowledge as a Government prosecutor, detailing some supposed conversations which he had with Mr. Pinhey in that capacity.

Their Lordships think it right to say that they see no reason to suppose that there is any foundation for these or any other of the charges made by Bhidé against Mr. Pinhey. Upon the transmission of the report of the subordinate Judge, together with Bhidé's "explanation," the High Court, after hearing Bhidé, made the Order appealed against. By their Letters-Patent the High Court had power to remove or suspend a pleader or vakeel of that Court for reasonable cause, and they also had power to remove or suspend a pleader or vakeel of the subordinate Courts, under Regulation 2 of 1827, s. 56, which is in these terms:—

"A pleader accused of a criminal offence, or guilty of misbehaviour or neglect of duty, shall be liable to be suspended or dismissed under the rules regarding Commissioners, contained in the 3rd clause of s. 38 of this Regulation."

It has been urged that Bhidé's offence was no more than a contempt of Court, for which he was liable to the penalty of fine or imprisonment attaching to that offence, and that the punishment awarded by the Court was beyond their powers. The case of *Re Wallace*, 4 Moore, P. Cases, was cited in support of this contention. In that case it appeared that Mr. Wallace, an attorney and barrister of the Supreme Court of Nova Scotia, had addressed a letter to the Chief Justice, complaining of alleged partiality on the part of the Bench and injustice to himself. This letter the Court adjudged to be a contempt of Court, but instead of proceeding to inflict on Mr. Wallace the punishment applicable to the offence of which they had adjudged him guilty, viz., fine or imprisonment, suspended him from practice. The Judgment of suspension was reversed on Appeal.

Their Lordships regard the offence of Bhidé as much more than a mere contempt of Court, and it was so treated by the High Court. Such conduct as has been above described is, in their opinion, "misbehaviour" so serious, and so far connected with

his office and character of a pleader, as to fall within the meaning of the Regulation above quoted. It follows that the High Court had power to deal with it as they have done, and, in their Lordships' opinion, that power has been exercised with leniency, prompted possibly by the consideration that he had received some provocation.

Their Lordships will humbly advise Her Majesty that the Order be confirmed, and the Appeal dismissed. The case having been heard *ex parte*, there will be no order as to costs.

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