

Reading Material for B. Com LLB. VIII Semester (17.04.2020)

SELECTED OPINION OF DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA ON PROFESSIONAL MISCONDUCT

1.. Banumurthy v. Bar Council of Andhra Pradesh

DC Appeal No.3/1994

The appellant was a member of the Andhra Pradesh Judicial service. When he was working as Metropolitan Magistrate at Hyderabad there were certain allegations of corruption against him. A departmental enquiry was conducted and he was served with an order of compulsory retirement and retired on 30-7-1991.

After compulsory retirement he applied for resumption of practice. The State Bar Council referred the matter to the Bar Council of India because he had been found guilty by the departmental enquiry. The Bar Council of India returned the matter to the Disciplinary Committee of the State Bar Council found him guilty of professional misconduct and suspended him from practice for a period of 2 years. Against this order the present appeal has been filed.

When the appeal was pending, he was allowed to resume his practice from 6-4-1994 by some court order. Bar Council of India continued the enquiry and finally held that since 2 years has already lapsed since his punishment for corruption charges, he shall resume his practice.

2. Dr. D. V. P. Raja v. D. Jayabalan

BCI DC Appeal No.43/1996

The appellant lodged a complaint with the Bar Council of Tamil Nadu alleging that the respondent's application in the form of complaints addressed to various authorities amounts to professional misconduct. The State Bar Council passed a resolution that there is a prima facie case of professional misconduct and it was placed before the Disciplinary committee of the State Bar Council for its adjudication.

Before the Disciplinary Committee the respondent raised a preliminary issue that the Disciplinary Committee has no jurisdiction in this matter because there is no connection between his standing as lawyer and his representation to various authorities. The Disciplinary Committee of the State Bar Council also accepted this argument and dismissed complaint without going in to the merits of the complaint. The Disciplinary Committee held that there was no nexus or proximity in his standing as a lawyer and his to various authorities.

Against this order an appeal was filed before Bar Council of India. In the Bar Council of India, it was argued that the Bar Council of Tamil Nadu having passed a resolution that there is a prima facie case against the respondent, the Disciplinary Committee could not have dismissed the complaint without hearing it on merits.

After hearing both the sides the Bar Council of Tamil Nadu has passed a resolution that there is a prima facie case to be enquired in to by the Disciplinary Committee has no power to consider the question of its jurisdiction on the matter.

The decision of the Bar Council of Tamil Nadu is good and valid.

3. G. M. Hirmani v. Iswarappa

BCI DC Appeal No. 30/1995

The petitioner filed a complaint against the respondent. Mr. Iswarappa (a practicing lawyer) in the Bar Council of Karnataka alleging professional misconduct on the following grounds.

1. The petitioner filed a partition suit against Grija Devi and Premadevi (O.S.No.293/87). The respondent Mr. Iswarappa was the general power of attorney holder of Smt. Girija Devi and Premadevi and also acted as Advocate for them in the said case. He misused his position as an Advocate and dominated the will of Girija Devi and Premadevi and purchased one portion of the suit property on 30-3-93 from them.
2. On 4-6092 Mr. Iswarappa took the signature of kirmani in a ten rupee bank bond paper promising to compromise the partition suit and thereafter committed theft of the same bond paper.
3. During the pendency of the partion suit Mr. Iswarappa often visited the house of the complainant in a drunken stage, through the complainant had asked him not to visit his house during the pendency of the suit.
4. Iswarappa has falsely filed a criminal case against the complainant (C.C.No.12/93) Which was dismissed after enquiry.

During the enquiry Iswarappa admitted that he was the general power of attorney of Girija Devi and Premadevi and has purchased their property for valuable consideration and paid the full amount and denied all other allegations.

The State Bar Council, after conducting a proper enquiry dismissed the complaint. Thereafter, the complainant filed an appeal before the Bar Council of India.

The Bar Council of India also dismissed the appeal on the following grounds.

1. The complainant had failed to prove that Mr. Iswarappa took signature of the complainant on a blank bond paper.
2. He has failed to prove that Iswarappa has purchased the property by misusing his power of attorney.
3. He failed to prove that Iswarappa acted as an Advocate for Girija Devi Premadevi in the partition suit. Iswarappa produced evidence that he never acted as council of pemadevi and Girijadevi in the partition suit and one Mr. Atchutha Giri was the Advocate for them in that partition suit. Thus the complainant had failed to establish a case of professional misconduct against the respondent.

4. N.S. (Appellant) v. K.V. (Respondent)

BCI DC Appeal No.14/198

The appellant was a Govt. Pleader and the respondent was a Senior Advocate of 33 years' experience in the Madras High Court. On 12-11-1986 when he was going to the Bar Association, the appellant informed him that he made a mention of a case before a Judge in which respondent was appearing for the opposite party. The respondent told the appellant that he had not been previously informed about it and that he has no notice that the appellant is going to make a mention in the case; so 'I will see to it'. Immediately the appellant without any justification abused the respondent in a very bad manner using vulgar words.

K.V. filed a complaint before the Bar Council of Tamil Nadu. N.S. denied all the allegations, but admitted that heated exchange of words took place between them. After examining both the parties, the Disciplinary Committee found him guilty of professional misconduct and suspended him from practice for a period of 6 months.

N.S. challenged this order before the Bar Council of India. The main question in the appeal is whether the abusive language used by the appellant against the respondent would amount to professional misconduct. The Bar Council of India held that it amounts to professional misconduct but it held that the suspension of N.S. from practice for a period of 6 months is not necessary and reprimanded with strong words.

5. P. R (Complainant)v. V.I (Respondent)

BCI TR Case No.101/1998

The complainant was the District Munisif Magistrate at Anakapalle from 19-11-84 to 8-4-85. The respondent was a practicing Lawyer there. The respondent was the Advocate for a respondent in a maintenance case. On 29-10-1985 when the case was called the Advocate as well as his client was absent, so ex-party order was passed.

Therefore, the present respondent filed a contempt petition against the complainant (P.R) in his court alleging the following things.

1.The High Court has passed transfer order to P.R. on 20-10-1985 but, instead of handing over the charge and obey the order he continued there up to 8-11-1985 on certain pretext (arranged by him).

2.The complainant was wasting valuable time of the court and also the revenue of the Govt.

P.R. referred this contempt petition to the District Judge. District Judge referred it to High Court. The court advised P.R. to lodge a complaint against V.I. before the State Bar Council for professional misconduct. Hence P.R. filed a complaint against the respondent alleging professional misconduct because he has filed contempt petition

on false grounds under his signature against the presiding officer by name and bringing down the reputation of the presiding officer. The respondent also acted on his own and not under the instruction of his client.

The Bar Council of Andhra Pradesh after enquiry held that by filing the said contempt petition against the presiding officer with serious allegation, the respondent has committed professional misconduct.

In the meantime the respondent was also selected and appointed as District Munsif Magistrate and he ceased to be an Advocate. So, the Bar Council expressed its inability to pass any order of punishment against him for professional misconduct. So, they forward this order and other records to the High Court of Andhra Pradesh for necessary action.