

PRAHLAD SARAN GUPTA

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v.

BAR COUNCIL OF INDIA AND ANOTHER

FEBRUARY 26, 1997

[S.C. AGRAWAL AND G.B. PATTANAİK, JJ.]

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Advocates Act, 1961—Section 35—Professional misconduct alleged against the appellant Advocate, a Standing counsel for Railways having drafted a notice against Railway—Draft notice not sent to handwriting expert for opinion despite request—Conclusion about draft being in handwriting of delinquent Advocate reached by Disciplinary Committee solely on the basis of its own comparison of handwriting—Held : Not proper—Since charge of professional misconduct is quasi—Criminal it requires proof beyond reasonable doubt—Allegation of handing over a letter to the judgment debtor addressed to another advocate of the High Court to help him in obtaining stay of execution proceedings—Explanation of appellant that the disputed letter was not given to the judgment debtor but to some other person for some other case—Rejection of the explanation on the basis of photostat copy of affidavit filed by the other person without giving opportunity of cross-examining deponent—Held : Not proper—Finding of professional misconduct can not be based on photostate copy of the affidavit of the deponent who was neither examined as a witness by the complainant—Nor cross examined by the appellant—Wrongful retention of amount deposited with the appellant in connection with settlement of execution proceedings—Settlement not fructifying—Appellant yet retaining money—Held : Appellant guilty of professional misconduct—Penalty of reprimand imposed.

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The appellant was engaged by the decree holder, the complainant, in an execution proceedings. He filed a complaint of professional misconduct against the appellant with U.P. State Bar Council *inter alia* alleging that he deliberately handled his case with utter carelessness in collusion with the judgment-debtor. The appellant had wrongfully retained an amount deposited with him in connection with the settlement of the execution proceedings and inspite of his repeated demands he did not pay him the money and deposited the same after a long time to the court in order to harass him. He received fees from the judgment-debtor to engage a lawyer on his behalf in the High Court and wrote a letter to the Advocate of the

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- A High Court to get a stay of the execution proceedings. Besides, while acting as his counsel, he filed Title suit in a wrong court with utter carelessness. The appellant was also alleged to have indulged in money-lending business. As the Disciplinary Committee could not complete the proceedings within the period, the same were transferred to the Bar Council of India. The Bar Council rejected all other allegations against the appellant but found him guilty of professional misconduct for wrongfully retaining the amount deposited with him in connection with the settlement of the execution proceedings and also writing a letter to the advocate of the High Court asking him to help the judgment debtor in obtaining stay of the Execution proceedings. The Disciplinary Committee also found him guilty for drafting a notice against the Railways on behalf of a private party while he was a standing counsel for the Railways. However, this allegation was not there in the original complaint filed initially by the complainant. The Disciplinary Committee of the Bar Council of India imposed the punishment of suspension from practice for a period of one year holding the appellant guilty of serious professional misconduct. Being aggrieved, the appellant filed the present appeal.

Partly allowing the appeal, this Court

- E HELD : 1. The Disciplinary committee was in error in holding the appellant guilty of professional misconduct for drafting the notice under section 80 CPC, that was served on the Union of India on behalf of M/s. Agarwal Traders on the ground that document No. 16, the draft of the said notice, was in the hand writing of the appellant. The Disciplinary Committee had arrived at this conclusion by a comparison of the handwriting of the appellant with the handwriting in document No. 16. It was not advisable for the Disciplinary committee to base its conclusion purely on the basis of its own comparison of the handwriting, specially when the matter related to a charge of professional misconduct which is quasi-criminal in nature requiring proof beyond reasonable doubt. Having rejected the request for sending the document to a handwriting expert for examination on the view that the allegation was not contained in the complaint as originally filed, the Disciplinary committee was in error in going into the merits of the said allegation and further more in comparing the writing in the document with the handwring of the appellant-advocate without the assistance of the opinion of a handwriting expert and in coming to the conclusion that the said document was in the handwriting of the appellant.

State (Delhi Administration) v. Pali Ram, [1979] 1 SCR 931, relied on. [508-B-E] A

2. The Disciplinary Committee was wrong in holding the appellant guilty of professional misconduct for handing over a letter to the judgment-debtor addressed to an advocate of the High Court for helping him in obtaining stay of the execution proceedings in view of his specific denial that he never handed over any such letter to the judgment debtor. The appellant asserted that he wrote the disputed letter to the Advocate of the High Court in connection with some other case of a different person and handed over the letter to that person. He never wrote any letter as alleged, to the Advocate of the High Court on behalf of the judgment debtor in connection with obtaining Stay of the execution proceedings. The Disciplinary Committee wrongly rejected his explanation on the ground that the said explanation was not offered by the appellant in his written statement, but was subsequently offered during the course of evidence. Instead, the Disciplinary Committee wrongly relied upon a photostate of copy of an affidavit of that person denying having received any letter from the appellant, which was filed by the complainant alongwith his written argument after completion of evidence. The deponent was not examined as a witness by the complainant before the Disciplinary Committee. The appellant had no opportunity to cross-examine him on the contents of the affidavit. Therefore, it is held that the photostat copy of the affidavit could not be treated as evidence and on the basis of the same the examination offered by the appellant could not be rejected. Moreover, the version of the judgment debtor, which had been accepted by the Disciplinary Committee also suffers from serious infirmities, on the basis of which the appellant could not be held guilty of professional misconduct. [509-B-H; 510-F-H] B
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3. The appellant was charged for wrongfully retaining a sum of Rs. 1500 which was kept with him in connection with settlement of the execution proceedings under negotiation between the judgment-debtor and the decree-holder. The proposed settlement under which the amount was deposited with the appellant did not materialise, the appellant did not return the amount either to the decree holder or to the judgment debtor and continued to retain the same him till he deposited it in the court on May 2, 1978. The order sheet of the execution case shows that the proceedings had terminated on April 4, 1978. The action of the appellant in not returning the amount either to the decree-holder or to the judgment-debtor G
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A and retaining the same with himself till May 2, 1978 when he deposited it in the court, was not in consonance with the standards of professional ethics expected from a Senior member of the profession. Therefore, the appellant had been rightly held guilty of professional misconduct for having wrongfully retained Rs. 1500 which had been kept with him in connection with the settlement in the execution proceedings. The ends of justice would be met if the punishment of reprimand is imposed on the appellant for committing the misconduct of wrongfully retaining the amount. [512-A; 511-E-G]

C CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3588 of 1984.

From the Judgment and Order dated 25.3.84 of the Bar Council of India, in T.C. No. 12 of 1982.

R.B. Mehrotra, V.D. Gaur and Dr. I.B. Gaur for the Appellant.

D V. Sharma (NP) for the Respondents.

The Judgment of the Court was delivered by

E S.C. AGRAWAL, J. : This appeal, filed under Section 38 of the Advocates Act, 1961 (hereinafter referred to as 'the Act'), is directed against the judgment of Disciplinary Committee of the Bar Council of India (hereinafter referred to as 'the Disciplinary Committee') dated March 25, 1984 in B.C.I. Tr. Case No. 12 of 1982 whereby the Disciplinary Committee has found the appellant guilty of serious professional mis-conduct and has imposed the punishment of suspension from practice for a period of one year.

G The appellant has been practising as an advocate at Ghaziabad and is enrolled with the Bar Council of Uttar Pradesh. He was appearing for the decree holder in Execution Case No. 55 of 1974 *M/s. Atma Ram Nanak Chand v. Shri Ram Contractor*, in the Court of Civil Judge, Ghaziabad. A complaint was received by the U.P. State Bar Council from one, Rajendra Prasad (hereinafter referred to as 'the complainant'), a partner of the firm *M/s. Atma Ram Nanak Chand*, on August 1, 1979. In the said complaint the complainant has made the following allegations against the appellant :

H (1) The appellant had colluded with the judgment debtor and had

realised Rs. 1,600 from him out of which the sum of Rs. 1,500 was withheld by the appellant with himself and he did not pay it to the decree holder for a period of eight months inspite of repeated requests and in order to harass the decree holder, instead of handing over the same personally to him, he deposited the said amount in Court on May 2, 1978. The balance amount of Rs. 100 was taken by him as fee from the judgment debtor to enable him to get time from the High Court for procuring stay order in the execution proceedings.

(2) The appellant received Rs. 245 from the judgment debtor for getting some other counsel engaged to get the execution proceedings stayed and to see that the auction of judgment debtor's property was not approved by the court. The appellant got Shri Mahesh Prasad Tyagi, Advocate engaged from the side of the judgment debtor and charged Rs. 110 for the purpose and that the execution of the decree was delayed due to careless handling of the case by the appellant since no permission for bidding at auction from the court was obtained deliberately in order to leave a lacuna for delaying the execution and that Shri M.P. Tyagi, Advocate, taking advantage of the said lacuna, filed objection under Order 21 Rule 72 C.P.C. for cancellation of the auction.

(3) The appellant had collected from the judgment debtor a further sum of Rs. 450 on account of fees and expenses for getting some counsel engaged At Allahabad to get the execution proceeding stayed and for the purpose he had given a letter dated April 5, 1978 to the judgment debtor Shri Ram for Shri V.K. Gupta, Advocate at Allahabad and that Shri Ram instead going to Allahabad with the aforesaid letter sent a reply paid letter to Shri V.K. Gupta, advocate making enquiries about the stay but a reply came from the clerk of Shri V.K. Gupta, Advocate on April 14, 1978 that no case of his had been referred to him from the appellant.

(4) The appellant, as counsel for the complainant's firm, had filed Suit No. 10 of 1977 against Pradhan Shri Ramnath Singh in the court of Munsif (Judge, Small Causes Court, Gaziabad) with utter carelessness with the result that their new counsel had to take back

A the plaintiff on April 26, 1978 to file it in the proper court, namely, the Court of Civil Judge (Judge, Small Causes Court), Ghaziabad.

(5) The appellant was indulging in money lending business at very high rate of interest and thus mis-conducting himself as an advocate and had advanced loan to one Sunderlal of Ghaziabad.

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A copy of the said complaint was sent to the appellant by the State Bar Council for his explanation. The appellant submitted his reply to the complaint on December 12, 1979 wherein he denied all the allegations contained in the complaint. The appellant denied having received Rs. 1,600 in collusion with the judgment debtor and stated that after the writ for holding and action of the judgment debtor's property had been handed over to the court Amin, Shri Nanak Chand, the father of the complainant, as a partner of firm M/s. Atma Ram Nanak Chand, entered into an arrangement with the judgment debtor telling him that if he paid Rs. 1,500 at once then he would not get the auction held and that he would accept the remaining amount in instalments within two months and that in pursuance to the said arrangement the judgment debtor paid a sum of Rs. 1,500 whereupon Shri Nanak Chand made an endorsement on the writ with the Amin about this payment of Rs. 1,500 and the fact that he did not want the auction to be held on November 2, 1977. The appellant stated that he was prepared to pay up the amount of Rs. 1,500 to the decree holder if a receipt signed by both the judgment debtor and decree holder firm was given to him but they were not prepared to grant such a receipt and so he had retained the amount with him as a trustee and soon after the receipt of the registered letter from the decree holder he had deposited the amount in the court. The appellant denied having received any amount from the judgment debtor for engaging any lawyer for him for obtaining stay. He also stated that he had not been careless or negligent in any manner as an advocate of the 'complainant's firm in the execution case and that permission for bidding by the decree holder under Order 21 Rule 72 C.P.C. was not taken by him because it was not necessary in view of the amendment of the said Rule by the Allahabad High Court and that no objection on that score had been taken by the judgment debtor against the auction sale. As regarding filing of Suit No. 10 of 1977 on behalf of M/s. Atma Ram Nanak Chand in the court of Munsif, Gaziabad as a small causes suit, the appellant stated that he had not acted carelessly and negligently inasmuch as at that time that was the correct court. He also

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denied the allegation that he was doing money lending business. The appellant stated that the complaint had been lodged against the appellant because of annoyance on the part of the complainant as the appellant had declined to advance a loan of Rs. 12,000 which the complainant was demanding from him. A

The State Bar Council referred the case to one of its Disciplinary Committees but the said Committee could not complete the proceedings in the prescribed time of one year and, therefore, the proceedings were transferred to the Bar Council of India under Section 36b of the Act and thereafter the Disciplinary Committee dealt with the proceedings. B

In support of the complaint, the complainant examined himself as a witness and produced the judgment debtor, Shri Ram, as well as Sunderlal and Balraj Gupta. The complainant also produced a number of documents. The appellant examined himself in defence. C

The Disciplinary Committee did not find merit in the allegation in the complaint that the appellant was grossly careless in handling the execution case and he deliberately did not seek permission from the court for the decree holder to bid at the auction in order to leave legal lacuna for the execution of the decree. The Disciplinary Committee has accepted the explanation of the appellant that the permission was not sought under Order 21 Rule 72 C.P.C. in view of the amendment of the said rule by the Allahabad High Court. The Disciplinary Committee did not also find merit in the case of the complainant that the appellant had filed title Suit No. 10 of 1977 on behalf of the firm M/s. Atma Ram Nanak Chand in the court of Munsif, Ghaziabad with "utter carelessness and that the suit should have been filed in the Court of Civil Judge (Small Causes Court), Ghaziabad. D
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The Disciplinary Committee has observed that they could not see any reason not to accept the version of the appellant that at the relevant time the court of Munsif, Ghaziabad was the proper court having jurisdiction. As regards advance of loan to Sunderlal, the Disciplinary Committee observed that a single case of advance of loan on interest cannot make out a case of the lender engaging in money lending business. The Disciplinary Committee has, however, found the appellant guilty of gross professional mis-conduct on the basis of the following findings :

- (i) The version of the complainant regarding receipt of Rs. 1,500 by the appellant from the judgment debtor was acceptable and H

A finds support from the endorsement by Shri Nanak Chand on the writ for auction which states that his advocate had accepted Rs. 1,500 out of the decretal dues from the judgment debtor and had told him that he had given the judgment debtor two months time. The said endorsement falsifies the version of the appellant that B Shri Nanak Chand had received Rs. 1,500 from the judgment debtor and had deposited the amount with him. From the endorsement it cannot be deduced that any arrangement had been arrived at between the decree holder and the judgment debtor and that the decree holder had accepted Rs. 1,500. It was the appellant who had granted two months time to the judgment debtor.

C (ii) The explanation of the appellant that the amount of Rs. 1,500 was deposited in trust with him by both the decree holder and judgment debtor and it had been agreed that the appellant would pay back the amount if a receipt signed by both the judgment debtor and decree holder was given for it was not acceptable.

D (iii) The appellant was an advocate for the decree holder and according to his own version the amount had been received by Shri Nanak Chand, decree holder from the judgment debtor and deposited by him with him and in such a case there could be no question of any requirement of a receipt signed by the judgment debtor also for payment of the amount to the decree holder and that the professional duty of the appellant required that he should have asked the decree holder to take the amount from him and only in case the decree holder did not come up to take it after granting a due receipt that he could retain the amount with himself. E F The appellant does not say that he had called upon the decree holder either verbally or in writing to take the money from him.

G (vi) The conduct of the appellant in depositing the amount in the court after receipt of a registered letter from the complainant was definitely not warranted since it could cause harassment to his client in taking the amount back from the court. He could have sent the amount through a bank draft or through money order if the decree holder was not coming forward to receive it.

H (v) The appellant had admitted the authorship of the letter dated April 5, 1978 addressed to Shri V.K. Gupta, Advocate and his

explanation that the said letter was given to one Naresh Chandra A
 Singhal for some case of his had not been stated by the appellant
 in his written statement and the said explanation was offered for
 the first time in his evidence. The complainant had filed a photostat
 copy of the affidavit of Naresh Chandra Singhal along with his
 written arguments and that in his affidavit Naresh Chandra Singhal B
 has denied having received the aforesaid letter or any other letter
 from the appellant and in such circumstances the statement and
 the evidence of Shri Ram in respect of the allegation that the
 appellant had taken a sum of Rs. 245 on account of fees and
 expenses for getting some other counsel engaged at Allahabad to
 get the execution proceedings stayed and for that purpose he had C
 given a letter dated April 5, 1978 addressed to Shri V.K. Gupta,
 Advocate, at Allahabad, to the judgment debtor was acceptable.
 It finds corroboration from the conduct of Shri Ram after the receipt
 of the letter.

(vi) Even though the appellant was a standing counsel for the D
 Railway, he committed professional mis-conduct in drafting a
 notice under Section 80 C.P.C. on behalf of M/s. Agarwal Traders,
 Ghaziabad, a sister concern of the complainant, for service upon
 the Union of India through the General Manager, Western Railway
 and the said notice was served through another lawyer. The E
 complainant had filed the draft of the said notice in the pen of the
 appellant as Document No. 16.

Shri R.B. Mehrotra, the learned senior counsel appearing for the F
 appellant, has submitted that the Disciplinary Committee has erred in
 holding the appellant guilty of professional mis-conduct on the basis of the
 charge relating to notice under Section 80 C.P.C. having been drafted by
 the appellant. The submission is that the said charge was not contained in
 the complaint filed by the complainant and was put forward for the first
 time before the Disciplinary Committee of the State Bar Council by the G
 complainant in his application and furthermore the request of the appellant
 for examination of the hand writing in the draft of the notice filed as
 Document No. 16 by an expert to show that the said draft of the notice
 was not in the hand writing of the appellant having been rejected by the
 Disciplinary Committee, the Disciplinary Committee was in error in hold-
 ing, on the basis of a comparison of the admitted hand writing of the H

A appellant with the hand writing in Document 16, that the same was written by the appellant.

B We are in agreement with Shri Mehrotra that the Disciplinary Committee was in error in holding the appellant guilty of professional misconduct for drafting the notice under Section 80 C.P.C. which was served upon the Union of India through the General Manager, Western Railways on behalf of M/s. Agarwal Traders, Ghaziabad on the view that Document No. 16, the draft of the said notice, was in the hand writing of the appellant. The Disciplinary Committee has arrived at this conclusion by a comparison of the hand writing of the appellant with the hand writing in Document C No. 16. We find that during the course of arguments a request was made by the learned counsel appearing for the appellant before the Disciplinary Committee to send Document No. 16 to a hand writing expert for examination, but the said request made on behalf of the appellant was rejected by D the Disciplinary Committee on November 27, 1983 on the view that no useful purpose would be served because the allegation relating to the said document was not contained originally in the complaint. Having rejected the request for sending the said document to a hand writing expert for examination on the view that the said allegation was not contained in the complaint as originally filed, the Disciplinary Committee was in error in E going into the merits to the said allegation and furthermore in comparing the writing in the said document with the hand writing of the appellant without the assistance of the opinion of a hand writing expert and in coming to the conclusion that the said document was in the hand writing of the appellant. Reference, in this context, may be made to the decision in *State (Delhi Administration) v. Pali Ram*, [1979] 1 SCR 931, wherein it has been F observed:

G "Although there is no legal bar to the Judge using his own eyes to compare the disputed writing with the admitted, even without the aid of the evidence of any handwriting expert, the Judge should, as a matter of prudence and caution, hesitate to base his finding with regard to the identity of a handwriting which forms the sheet-anchor of the prosecution case against a person accused of an offence solely on comparison made by himself. It is, therefore, not advisable that a Judge should take upon himself the task of H comparing the admitted writing with the disputed one to find out

whether the two agree with each other; and the prudent course is to obtain the opinion and assistance of an expert." (p. 944) A

In our opinion, it was not advisable for the Disciplinary Committee to base its conclusion purely on the basis of its own comparison of the hand writing, especially when the matter related to a charge of professional mis-conduct which is quasi-criminal in nature requiring proof beyond reasonable doubt. We are, therefore, unable to uphold the finding recorded by the Disciplinary Committee holding the appellant guilty of professional mis-conduct for having prepared the draft of the notice under Section 80 C.P.C. that was served on the Union of India on behalf of M/s. Agarwal Traders. B C

As regards the charge that the appellant had sent the letter dated April 5, 1978 to Shri V.K. Gupta, Advocate, at Allahabad, it may be stated that the appellant does not dispute that he had sent the said letter to Shri V.K. Gupta, Advocate, but his case is that he handed over the said letter to one Naresh Chandra Singhal in connection with his case and it was not given to Shri Ram, the judgment debtor in the execution proceedings, for obtaining stay of execution of the decree passed in favour of the firm of the complainant. The case of the complainant, on the other hand, is that the said letter had been delivered to Shri Ram who sent the same to Shri V.K. Gupta, Advocate by post and in reply he received a post card dated April 14, 1978 from the clerk of Shri V.K. Gupta, Advocate. The Disciplinary Committee has not accepted the explanation offered by the appellant on the view that the said explanation was not offered by him in his written statement but was offered subsequently during the course of evidence. Along with his written arguments, after the evidence had been recorded, the complainant filed a photostat copy of the affidavit of Shri Naresh Chandra Singhal wherein Shri Naresh Chandra Singhal has denied having received any letter from the appellant. Shri Naresh Chandra Singhal was not examined as a witness by the complainant before the Disciplinary Committee. The appellant had no opportunity to cross-examine Shri Naresh Chandra Singhal on the contents of the affidavit. We are of the view that the photostat copy of the affidavit of Shri Naresh Chandra Singhal could not be treated as evidence and on the basis of the same the explanation offered by the appellant regarding the said letter could not be rejected. Moreover the version of the judgment debtor, Shri Ram, which has been H

A accepted by the Disciplinary Committee suffers from serious infirmities. Shri Ram has stated that he did not send the letter of the appellant to Shri V.K. Gupta, Advocate at Allahabad but had sent a reply paid post card to him. A copy of the said post card which is said to have been sent by Shri Ram to Shri V.K. Gupta, Advocate, at Allahabad has been produced as

B Ex. C-8. There is nothing in the said document to show that it was addressed to Shri V.K. Gupta, Advocate. No evidence has been adduced to prove the posting of the post card to Shri V.K. Gupta, Advocate. The post card filed as Document No. 12, which is said to have been received by Shri Ram, does not show that the person who had sent the said post card was the clerk of Shri V.K. Gupta, Advocate. No evidence has been

C produced to prove that the signatory of the said post card was the clerk of Shri V.K. Gupta, Advocate. In the said post card there is no reference to Shri V.K. Gupta, Advocate or person being the clerk of Shri V.K. Gupta. Furthermore, in Ex. No. C8, which is claimed to be the copy of the post card that was sent by Shri Ram to Shri V.K. Gupta, Advocate, it is stated

D that the copy of the order dated March 23/24, 1978 passed by the Civil Judge, Ghaziabad in the case of *Shri Ram v. M/s. Atma Ram Nanak Chand* has been sent but the stay order has not been obtained. We have perused the order sheet of the court in the execution case of *M/s. Atma Ram Nanak Chand v. Shri Ram* and we find that the said execution matter had not been

E fixed on March 23 or March 24, 1978 and no order was passed in that case on those dates. In these circumstances, no reliance can be placed on the evidence of Shri Ram that the appellant had given him the letter dated April 5, 1978 in this regard and on the basis of the evidence of Shri Ram it cannot be said that the appellant had handed over the letter dated April

F 5, 1978 addressed to Shri V.K. Gupta, Advocate, at Allahabad, to Shri Ram for the purpose of his obtaining stay of execution proceedings from the Allahabad High Court. We are, therefore, unable to uphold the finding recorded by the Disciplinary Committee as regards the appellant having been guilty of professional misconduct in addressing the letter dated April

G 5, 1978 to Shri V.K. Gupta, Advocate to enable the judgment debtor (Shri Ram) to obtain stay of execution proceedings in which he was engaged on behalf of the decree holder.

As regards the charge about withholding of the sum of Rs. 1,500 which was handed over to him the case of the appellant is that said sum

H was placed with him by both the parties, namely, Shri Nanak Chand,

Partner of firm M/s. Atma Ram Nanak Chand (decree holder), and Shri Ram (judgment debtor) in connection with settlement which was being negotiated between them and that the appellant refused to pay the said money to the decree holder for the reason that it could be paid only if a joint receipt of both the parties was handed over to him. The Disciplinary Committee has not accepted the said version of the appellant on the view that in the endorsement on the writ for auction Shri Nanak Chand has stated that the appellant had received the said sum of Rs. 1,500 from the judgment debtor. Shri Mehrotra has urged that Shri Nanak Chand was the best person who could depose in this regard and since he has not been examined as a witness by the complainant the version of the appellant about the circumstances in which the sum of Rs. 1,500 was paid to him should be accepted. It is no doubt true that Shri Nanak Chand was the best person who could depose about the circumstances in which the sum of Rs. 1,500 was deposited with the appellant. But at the same time, we cannot lose sight of the fact that the proposed settlement under which the amount of Rs. 1,500 was deposited with the appellant did not materialise on November 2, 1977 itself and shortly after making the first endorsement Shri Nanak Chand had made a further endorsement on the writ of auction seeking auction of the property and as a result the auction of the property of the judgment debtor was conducted by the Amin. Although the proposed settlement did not fructify the appellant did not return the amount of Rs. 1,500 either to the decree holder or to the judgment debtor and continued to retain the same with him till he deposited it in the court on May 2, 1978. The order sheet of the execution case shows that the proceedings had terminated on April 4, 1978. The action of the appellant in not returning the amount of Rs. 1,500 either to the decree holder or to the judgment debtor and retaining the same with himself till May 2, 1978 when he deposited it in the court was not in consonance with the standards of professional ethics expected from a senior member of the profession. We are, therefore, of the view that the appellant has been rightly held guilty of professional mis-conduct for his having wrongfully retained Rs. 1,500 which had been kept with him in connection with the settlement in the execution proceedings. We think that the ends of justice would be met if the punishment of reprimand is imposed on the appellant for the said mis-conduct on his part.

We, therefore, partly allow the appeal and, while holding the appel- H

- A** lant guilty of professional mis-conduct in wrongfully retaining the amount of Rs. 1,500 which was kept with him in connection with the settlement in the execution proceedings till he deposited the said amount in the court on may 2, 1978 and in not paying the said amount to the decree holder inspite of demand, we impose the penalty of reprimand on the appellant
- B** for the said mis-conduct. No order as to costs.

H.K.

Appeal partly allowed.