



THE KERALA HIGH COURT ADVOCATES' ASSOCIATION

Reg. No. ER 931/2004

High Court Building, Kochi - 682 031. Ph : 2393244, Fax : 0484 - 2394435, Email : k.hcaa@yahoo.com

KHCAA/ HC/ 26 /2024

16.02.2024

To,

The Hon'ble Chief Justice,
High Court of Kerala,
Ernakulam – 682031.

Sir,

SUB: Misconduct / Misbehaviour of Justice A Badharudeen towards
Advocates

REF: Letter dated 15.02.2024 from Adv. Jayakumar Namboodiri

1. The Association has received several complaints against Justice A Badharudeen as regards his inappropriate conduct / Misconduct / Misbehaviour in the courtroom while dealing with Advocates. Most advocates complained of humiliation and insensitivity they face while discharging their duties in the court of Justice A.Badharudeen. The letter referred to above is enclosed as **Annexure-A** and the same is self-explanatory.
2. The Advocate community has suffered greatly after the Covid-19 Pandemic and many have died because of health issues. The advocates community are enraged at the insensitivity shown by Justice Badharudeen towards Adv.Jayakumar Namboodiri who was visibly in pain and discomfort and required medical help.
3. The Association recalls the cooperation the Bar has given to the Bench whenever there was any 'health issues' with any of the Judges. One of the Judges have been holding the court in the Chambers for about an year now and the advocates have cooperated without any complaints and the



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Advocates expect the Judges to be sensitive to the 'health issues' faced by advocates as well.

4. The Association takes serious note of the conduct of Justice A Badharudeen and after having made inquiries with several advocates who were present in the courtroom during this incident, we have confirmed that Justice Badharudeen was insensitive to the issue at hand and humiliated the advocate in the open court.
5. This is not an isolated incident and there are several other complaints also against Justice Badharudeen. There were incidents where Justice Badharudeen published supplementary list at 10.30 AM and posted several cases in the list, without any prior information to any of the advocates concerned. Thereafter, when the said list was called, there was no representation from advocates as they had no information about these cases. Justice Badharudeen had dismissed those cases stating no representation of lawyers. This incident happened when Justice Badharudeen was holding the roster of bail application.
6. This Association has resolved not to indulge in strikes / boycotts / Protests etc and have decided to deal with each of the issue through legal means and this letter is being written to your Lordship so as to enable your Lordship to counsel the concerned Judge and impress upon him to deal with advocates with humility, sensitivity and courteously. In this context, we refer to **R.K. Garg, Advocate v. State of Himachal Pradesh** [(1981) 3 SCC 166], wherein the Hon'ble Supreme Court has observed thus:-



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“The Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar and their past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar. It is unquestionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a court room.”

7. The Association also puts on record that the Bar holds the Judges of this Hon'ble Court in high regard and baring a handful, most Judges deal with advocates courteously. In *C.Ravichandran Iyer Vs. Justice A. M. Bhattacharjee* [(1995)5 SCC 457], the Hon'ble Supreme Court made the following observation:

“The bad behaviour of one Judge has a rippling effect on the reputation of the judiciary as a whole. When the edifice of judiciary is built heavily on public confidence and respect, the damage by an obstinate Judge would rip apart the entire judicial structure built in the Constitution.”

8. The Association has also taken note of the increasing number of incidents involving the Bar and Bench. The unfortunate incident in Kottayam has resulted in contempt action against 29 advocates. However, the conduct of the Judge towards the advocates for a prolonged period which led to the incident did not seem to raise any eyebrows. Similarly, the Association is inundated by complaints where Judges have improperly conducted



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themselves and put advocates under fear. Instance of such conduct is when the Judges say that “*If you argue the matter, cost will be imposed on you*”, “*I will hold you in contempt*” etc.

9. The Association humbly points out that the Bar is an integral part of the Judiciary and the Hon’ble Supreme Court in *R. Muthukrishnan Vs. High Court of Madras*, (2019 (16) SCC 407) observed as under:

“20. There is a fine balance between the Bar and the Bench that has to be maintained as the independence of the Judges and judiciary is supreme. The independence of the Bar is on equal footing, it cannot be ignored and compromised and if lawyers have the fear of the judiciary or from elsewhere, that is not conducive to the effectiveness of judiciary itself, that would be self-destructive”.

10. The Association requests mandatory video recording of all proceedings before all courts including this Hon’ble Court. The Association had already raised this request in the ‘Computer Committee’ and we were informed of the ‘infrastructural upgradation’ required for the same for which there are no funds. The Association has requested all members to record video of their proceedings before the Hon’ble Court through the video conferencing facility until this Hon’ble Court sets up the system in the same manner as has been provided in the Hon’ble Supreme Court and rules made thereunder.

11. The Association is conscious of the fact that the Bar has an equal role to play in maintaining the dignity and decorum and the Association have requested its members to report any incident in the Association instead of making any confrontations in the courts. The Hon’ble Supreme Court in



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Muthukrishnan reminds both the Bar and Bench the need of dignity and decorum when it observed:

“18. The Bar is an integral part of the judicial administration. In order to ensure that judiciary remains an effective tool, it is absolutely necessary that Bar and Bench maintain dignity and decorum of each other. The mutual reverence is absolutely necessary. The Judges are to be respected by the Bar, they have in-turn equally to respect the Bar, observance of mutual dignity, decorum of both is necessary and above all they have to maintain self-respect too.”

12. The members of the Association have requested to call for a General Body Meeting to take up the issue and the Executive Committee has convinced them of effective action on the part so as to avoid any discussion on Judges conduct in a General Body. The members are incensed by the incident and effective resolution has to be assured.

13. We assure your Lordship of our cooperation to ensure smooth discharge of our duties so as to ensure the continuance of the faith of “We the People” on which the very foundation of the Judicial Institution rests.

Sincerely,

Adv. Anoop V Nair
Secretary



Adv. Yeshwanth Shenoy
President

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15/2/2024

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Date: 15/02/2024

To
The president
Kerala High Court Advocate Association

Sir

I am a member of KHCAA and an active lawyer practicing at High Court of Kerala from 2002 onwards. I wish to share my bitter experience I suffered on 14.02.2024 from Court number 1D. I am suffering from a serious back injury and was completely bed ridden on 13.02.2024. I got an appointment to consult Dr Vinod Padmanabhan at Sudheendra Medical Mission Hospital, Kacheripady on 14.02.2024 at 11 am, through Adv Lakshmi Narayanan who is one of the previous presidents of KHCAA as well as a director of Sudheendra Medical Mission Hospital.

As a matter of fact, I was not in a position to even sit or stand during the day due to the severe pain. I could not even have my breakfast due to this. The case in which I am the appellant's counsel with number RSA 803/2015 was posted as item number 7 before court number 1D on 14.02.2024. As a matter of professional propriety I made a submission before the Bench at 10.15 am that the case may be posted to another day. The opposite counsel also has no objection for the same. But the leaned judge rejected my submission. I repeated my submission



that I was not in any position to even sit on the stand and I appeared before the Court only to make this submission for adjournment. But my request was rejected by the Hon'ble Court presided by Justice Badharudeen without any hint of humanity. Hence I had to remain in the Court with severe pain. .

On seeing my difficulty, learned Senior Counsel S.V. Balakarishna Iyer and Advocate V. Premchand compelled me to proceed to the hospital immediately. They assured that they will take care of my case. Up on this I proceeded to the hospital and consulted Dr Vinod Padmanabhan. He observed that it was due to Muscle spasm on the left thigh due to the disc bulging. I was immediately taken to the Physiotherapy Department. After the Physiotherapy, I enquired about my case with Advocate Premchand. He informed me that the Court was not inclined to adjourn the matter despite being represented and informed about my health condition.

I came to the court directly from the hospital and submitted before the Court at 2.30 pm when the court started its post lunch session. The opposite side was represented by Advocate Hariraj at the time. I was forced to do this despite my severe medical condition only due to the inhuman, discourteous attitude and manner shown by the presiding judge in court 1D. I submitted that I was ready with the matter. To my surprise and agonising discomfort the case was adjourned to next week.

I am saddened by the lack of fraternity and mutual respect expected from the Bench in so far as when I submitted about my health condition in the fore noon, I was subjected to some off the cuff remarks from the Bench which both saddens and incenses me. I wish to point out that since the start of my practice before this Hon'ble Court I have never felt so humiliated and belittled.



When I enquired I came to know that several other lawyers have had such bitter experiences before the same Court. Though my case has been adjourned, the humiliation I was subjected to despite making adjournment request on genuine medical grounds and the feudal and inconsiderate attitude of the Judge concerned mocks at my merit as an advocate and I consider it my bound duty as member of this Bar to warn the committee and fellow members to be alert enough so that similar humiliating instances are not repeated at the cost of our members' dignity. I request the Association to take up the matter before the appropriate forum so that the Bench remains sensitive and sensible to genuine requests of the Bar.


Jayakumar Namboodiri T V

Advocate