

Mr. Pearey Lal Banerji

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The Allahabad High Court is noted in the country for having produced great Judges and lawyers. John Edge, Mahmud, Theodore Piggot, A. T. Harries, P. C. Banerji, Sulaiman and Niamatulla among the Judges and Moti Lal, Sunder Lal, Ram Prasad, Jogendra Nath Chaudhury, Satish Chandra Banerji, Tej Bahadur Sapru, O'Connor, Charles Ross Alston, Surendra Nath Sen and Pearey Lal Banerji among the lawyers (I have scrupulously left out living giants), to name only some of them, are names in the legal world of which any country could be proud. We here cherish their memory with respect, admiration and even awe.

I propose writing about Mr. Pearey Lal Banerji with whom I came into contact which was close and which subsisted for about 22 years till the last breath of Mr. Banerji's life. I had the privilege of appearing with and against him in a number of cases and in my younger days for me it was a passion to follow him from court to court, when I was free, and hear the master arguing his cases with consummate ability and skill.

Mr. Banerji was born on 24th July, 1883 at Allahabad and died here on 22nd March, 1952. His father Mr. Dwarka Nath Banerji too was a distinguished lawyer and professor of law in the University of Allahabad.

Mr. Banerji started practice in the High Court in 1907 and was appointed Advocate General of U. P. in 1947. His rise in the profession was steady and gradual and not phenomenal and therefore, certain and stable. He rose to the top of the profession and to dizzy heights of forensic lore not by miracles nor through any body's favour but by hard and studious work. Law, as is well-known, is a jealous mistress requiring constant wooing and law was Banerji's passion. His devotion to the goddess of law was single-minded and unique. In fact he had no other temple where he could burn the incense.

He was an unrivalled exponent of law and it was an intellectual treat to hear him marshalling his facts and unravelling the intricacies of the law involved in his cases. He held facts sacred and allowed no deviation. He had the unique advantage of possessing an unruffled temper and even the interruptions and fascinating repartees of his dear friend and formidable rival Dr. Kailas Nath Katju, who is happily still with us, did not disturb him and he went on with his argument until he had his full say. In persuading the Judges to appreciate his point of view. Needless to say, the Judges listened to him with great attention and consideration. His advocacy was persuasive, sweet and forceful. His command over the English language was superb and it was an equally fascinating intellectual treat to hear his dialogue. Where more than ordinary emphasis was needed or where the Judge wrongly persisted, like the waves in the ocean, his sentences, I couched in the most elegant language, came forth with a dash and thunder in quick succession and produced the desired effect.

His contribution to the enunciation of law at the bar is enshrined in the law reports of about 30 years during which period he appeared in almost every case of importance and he was equally at home in Criminal, Civil and Revenue law and latterly he had mastered the complicated Avadh Taluqdari Law, so much so that his services were constantly in requisition at Lucknow. In his later years his reputation had travelled beyond his own State and he had come to be recognised as an All-India leader of the profession, an Advocate of great skill whose enunciation of the legal principles was exquisite, illuminating and forceful. His style was at once elegant, chaste and captivating.

To glean a few of the cases in which his extraordinary ability as a lawyer contributed to the laying down of the law on the point by this High Court, the following may be found interesting and useful:

1. In Rameshwar Prasad's case reported in 1950 A. L. J. 719, Rameshwar Prasad vs. Ram Chandra over- ruling Dwarka Halwai's case reported in 1940 A. L. J., p. 166, the High Court held that the decree obtained against a minor where his guardian, properly appointed, acted with gross negligence is voidable and not void.
2. In Nand Ram's case reported in 1947 A. L. J. 34 the High Court made an important pronouncement while discussing the scope of an application under section 561-A, Criminal Procedure Code and held ". . . . the High Court is reluctant to interfere with the ordinary course of law and substitute its own judgment for the judgment of the Magistrate who is trying the case before the completion of the trial. But where the facts are so preposterous that the High Court feels satisfied on the admitted facts that there is no case against the accused and a further prolongation of the prosecution would amount to harassment and abuse of the process of the Court; it is the duty of the High Court to interfere under section 561-A of the Criminal Procedure Code and put an end to this abuse."
3. In Debi Prasad vs. Emperor (1947 A. L. J. 52) a full bench of 5 Judges considered Rule 119 of the Defence of India Rules and the applicability to it of section 114 of the Evidence Act.
4. In Mohammad Azam Khan's case reported in A. I. R., 1947 Allahabad 137 it was held that where the *waqf* was made in the name of God and was created in perpetuity and a portion of the usufruct of the *waqf* property had been reserved for pious and charitable purposes it would follow that the *waqf* intended by implication to reserve the ultimate benefit for charity.

Reference, however, to such cases will not be complete without mentioning two very important cases argued by Mr. Banerji, namely -

- (1) the famous contempt of court case against Mr. P. R. Das in which Mr. Banerji was at the height of his extraordinary forensic abilities, and (2) the U. P. Zamindari Abolition Act case which is a landmark in the history of land legislation.

We do not admire Pearey Lal Banerji only for his erudition and learning, his skill and advocacy but for his broad human sympathies. He was a good friend and helped the juniors and the needy. He was a man of few words but firm in his conviction. In his otherwise reserved and seemingly stern frame was encased a warm and soft heart. His personality was great and massive, He had a fine sense of humour and many do not know that in his free moments of which, however, he had very few, he enjoyed jokes. One trait of his character was that he would start a joke and make people around him laugh yet even a smile would not escape his own lips.

His sense of punctuality was remarkable. The most lucrative case could not detain him in the office beyond his usual hour of 8 or 8.30 in the night. When after the day's toil of almost unattainable intellectual occupation of the highest degree, he left his office and after an hour's rest and recreation, during which he even used to fondle small children and play with them, he sat down to dinner and used to go to bed only after reading some English literature which was his relaxation. I remember an incident which marks out his sense of punctuality. I was instructing him in a complicated case when the time for his leaving the office arrived. I was in the, midst of explaining the point of law involved in the matter. He pleasantly but firmly interrupted me saying "All that you say is quite true, but look at the clock. " I instantly obeyed and found that it was 8 p. m. We rose for the day and continued discussion the following evening.

I close this tribute by quoting a few sentences of his life-long friend Dr. Kailas Nath Katju, another doyen of the Allahabad Bar No tribute could be greater and no language more forceful:

"To him (Mr. Banerji) a new legal proposition is a thing of joy and beauty for ever and the way he examines it is like that of a jeweller looking at the flashing rays of a many coloured diamond. He explores every aspect of it just as an explorer explores every nook and corner of a newly discovered island. He traces the growth and development of a legal theory and principle like a scientist expounding the development of a far-reaching and world shaking scientific discovery. His law books, particularly his English law reports, those myriads of precedents, are the holy of holies not to be profaned by the touch of idle curiosity but to be opened and read and inwardly digested in the spirit of a devotee reading, the sacred scriptures . . . "

Such, I think, is the correct attitude of all devotees of law. An epoch making career like Mr. Banerji's should inspire and elevate us.