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Don't refuse cases, Supreme Court tells lawyers

Satya Prakash, Hindustan Times, New Delhi | Updated: Dec 08, 2010 01:58 IST

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Decrying the growing tendency among bar associations to pass resolutions to force advocates not to accept briefs of persons, such as 26/11 convict Mohammed Ajmal Kasab, the Supreme Court has declared all such resolutions "unconstitutional and against professional ethics."

"The action of any bar association in passing such a resolution that none of its members will appear for a particular accused, whether on the ground that he is a policeman or that he is a suspected terrorist, rapist, mass murderer... is against all norms of the Constitution, the statute and professional ethics," a bench headed by justice Markandey Katju said.

"Professional ethics requires that a lawyer cannot refuse a brief, provided a client is willing to pay his fee, and the lawyer is not otherwise engaged..." it said.

Quashing the counter-criminal cases filed by policemen and lawyers of Coimbatore during an agitation in 2007, the Supreme Court said it was the duty of a lawyer to defend an accused, no matter what the consequences.

The lawyers and women constables were involved in the fracas and lodged criminal cases against each other. The Coimbatore Bar Association passed a resolution that none of its members will defend the accused policemen.

Terming such resolution "a disgrace to the legal community", the Supreme Court declared all such resolutions of bar associations in India "null and void".

The Madras High Court had ordered a compensation of Rs 50,000 to advocate AS Mohammed Rafi, who was allegedly assaulted by

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policemen during the incident.

The Supreme Court enhanced the compensation to Rs 1.50 lakh, but strongly disapproved of the conduct of bar associations for frequently passing resolutions asking advocates not to appear for certain persons.

“Every person, however, wicked, depraved, vile, degenerate, perverted, loathsome, execrable, vicious or repulsive he may be regarded by society, has a right to be defended in a court of law and correspondingly it is the duty of the lawyer to defend him,” the Supreme Court said.

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