The Official Assignee Of Madras And As ... vs V.P.L.R.M. Palaniappa Chetty on 4 April, 1918

Equivalent citations: (1918)35MLJ473

JUDGMENTS

John Wallis, C.J.

1. I agree with my learned brothers that on the facts of this case the business must be taken to have been started by the 1st defendant as the joint family business of himself and his minor son, the 2nd defendant who subsequently attained majority before the date of the insolvency. This raises the important question whether the 2nd defendant was liable to be adjudicated an insolvent in respect of debts incurred for the purposes of the business during his minority and after he attained majority. As regards debts incurred during his minority the first question is, can he be made liable under Section 248 of the Indian Contract Act which makes a minor who has been admitted to the benefits of a partnership within the meaning of Section 247 liable on attaining majority for all obligations incurred by the partnership since he was so admitted unless he gives public notice within a reasonable time of his repudiation of the partnership. It has often been pointed out that this section goes much further than the English Law which does not make a partner admitted during minority personally liable after attaining majority except for obligations incurred after that date, but I have not come across any discussion of the reasons which actuated the legislature in enacting this more stringent rule All the minor members of the family who are in existence when a joint family business is started and all minors who are subsequently bora into it may in one sense be said to be admitted to the benefits of the partnership; and if this ia the sense in which these words are used in the Act then on attaining majority they all become personally liable for all the outstanding obligations of the partnership incurred since the foundation of the business or dates of their birth as the case may be. The words " admitted to the Benefits of a partnership " appear to have been used owing to the incapacity of minors under the Contract Act to enter into the agreement of partnership described in Section 239. On a careful examination of the authorities I do not find any case in which they have been held applicable to the minor members of a Hindu trading family. In Samalbhai Nathubhai v. Someshwar (1880) I.L.R. 5 Bom. 38 the learned Judges observed in a somewhat similar case that it was not a case of an ordinary partnership arising out of contract, but a case of joint ownership in a trading business, created through the operation of Hindu Law between members of an undivided Hindu family, and that the rights and obligations arising out of such a relationship could not be determined by exclusive reference to the Indian Contract Act. They, also, observed that the partnership created by the descent of an ancestral trade upon the members of a Hindu undivided family has many but not all of the elements existing in an ordinary partnership, and they considered it unnecessary to determine " whether a Hindu who becomes entitled to a share in a trading business is ipso facto and without his own consent involved in all the liabilities of a partner.",

2. Instead of resting their decision on the provisions of Sections 247 and 248 of the Contract Act they decided, as I read their judgment, independently of those provisions that an adult member of a Hindu trading family who left the business to be managed by his elder brother and never repudiated his interest in it must be held personally liable for the debts properly incurred by the brother in the course of the business. The debts so far as appears were incurred after the appellant had attained majority. In In the matter of Haroon Mahomed (1890) I.L.B. 14 Bom. 189, Sir Charles Sargent C, J. and Scott, J. decided that an adult Hindu who had taken some part in a joint family business and allowed it to be carried on without repudiating his interest in it was a partner and personally liable. No reference was made to the Indian Contract Act. In Vadilal v. Shah Khushal (1902) I.L.R. 27 Bom. 157, 159, Chandavarkar, J, observed that " from the mere fact that certain persons are members of a joint family, it does not necessarily follow that they are partners in a form which only one of them says is his, unless it was set up with the help of family funds." But in Gokal Kastur v.. Amarchand (1907) 9 Bom.L.R 1289 at p. l290, the same learned Judge is reported to have observed during the course of the argument that it had been held in Smalbhai Nathu-bhai v. Someshwar (1890) I.L.R 5 Bom. 38, that the Indian Contract Act does not apply to Hindu family business debts; but, as already observed, the learned Judges do not appear to have gone quite so far though they no doubt preferred to dispose of the case independently of the Contract Act. In the course of his judgment Chanda-varkar, J., who delivered the judgment of the court dealt with the question how far the managing member's contracts make the other adult members personally liable, and decided that they did on grounds altogether independently of the provisions of Sections 247 and 248 which were apparently held to be inapplicable. He also questioned the decision in Chalainayya v. Varaiayya (1898) I.L.R. 22 Mad. 166 : 9 M.L.J.3 which will be referred to later. Again in Raghunathji Tarachand v. The Bank of Bombay (1909) I.L.R. 34 Bom. 72, Chandavarkar, J., in holding that the minor's share in a joint family business was liable for a debt incurred for the purposes of the business, rested his decision on the principles of Hindu Law, and stated that it was unnecessary to rely on Section 247 of the Contract Act. Batchelor, J., in his judgment in the same case no doubt was disposed to regard Section 247 as applicable, but he was only dealing with the question whether the minor's share was liable, and had not to consider the question whether, if Section 247 were held applicable, the minor would not necessarily be made liable under Section 248 on attaining majority for all the outstanding obligations of the firm contracted since he acquired an interest by birth.

3. As regards Calcutta, Johurra Bibee v. Sreegopal Misser (1876) I.L.R. 1 Cal. 470 was decided without reference to the Contract Act. In Joykisto Cowar v. Nittyanund Nundy (1878) I.L.R. 3 Cal. 738 a bench of three Judges consisting of Garth,C.J., Mark by, J., and Mitter, J., decided that the minor's share was liable on the analogy of Section 247 of the Indian Contract Act, but did not apparently consider that the minor had by birth been "admitted to the benefits of the partnership," within the meaning of Section 247 so as to make that section and Section 248 applicable. In Bemola Dossee v. Mohun Dossee (1880) I.L.R. 5 Cal, 792., the question was, whether a mortgage of joint family property for the purposes of the joint family business was binding on the joint family, and it was held that it was without reference to the Contract Act.

4. Lastly, in Lutchumanen Chetty v. Sivaprakasa Mudaliar (1899) I.L.R. 26 Cal. 349, Sale, J., held'that a Hindu infant who by birth and inheritance acquired an interest in a joint family business did not necessarily become a partner, and could only become a member of the partnership by a

consentient act on the part of himself and his partners. The observations in Sanyasi Charan Mandal v. Asutosh Ghose (1914) I.L.R. 42 Cal. 225, 233 do not refer to the question of personal liability after attaining majority for debts contracted during minority. Anant Ram v. Channu Lal (1903) I.L.R. 25 All. 378 was a case of a member of a joint Hindu family entering into a partnership with strangers, and has no bearing on the present question. In Bishambhar Nath v. Fateh Lal (1906) I.L.R.29 All. 176 it was held that a member of a joint Hindu trading family who after attaining majority never took any active part in the business or had any concern with its management directly or indirectly after he attained majority could not be held personally liable for debts incurred by the managing member of the business after he attained majority. Distinguishing Samalbhai Nathubhai v. Someshwar Mangal (1880) I.L.R. 5 Bom. 38 and In the matter of Haroon Mahomed (1890) I.L.R. 14 Bom 189 and approving Chalamayya v. Varadayya (1898) I.L.R. 22 Mad, 166. Stanley, C.J., held that the managing member of such a business could not pledge the separate estate which another member might acquire " unless it be that by some consentient act on the part of the Utter he has accepted the position of a partner and ratified the transactions out of which the obligation to the creditors arose," citing with approval the observations of Subramania Aiyar, J., in Chalamayya v. Varadayya (1898) I.L.R. 22 Mad, 166.

5. The position of the minor members of a joint Hindu trading family is described in paragraph No. 300 of Mr. Mayne's Hindu Law where it is pointed out that, where the business is carried on in partnership with straagers, there can be no question of the minor members of the family becoming members of such a partnership by birth. This view has been affirmed in the recent Full Bench decision in Gangayya v. Venkataramiah (1917) 34 M.L.J. 271. He then goes on to consider the case of the business being carried on wholly by members of the family, and takes the view that the minor members do not become partners by birth even in these cases.

6. The interest of a minor in a joint Hindu family business whether existing at the date of his birch or founded during his minority is acquired by virtue of his belonging to the family and does not depend on any agreement on his part or on his admission by the other msmbers of the family to the benefits of the partnership. Consequently I think that such minors are not governed by Sections 247 and 248 of the Contract Act. This, I think, is in' accordance with the weight of authority and there 'is no direct authority the other way. Further, I think that the fact of a minor helping in the family business as in the present case does not constitute admission to the benefits of the partnership within the meaning of Section 247 of the Indian Contract Act, but may be referred to his position as a minor member of the family.

7. Dealing with the present case independently of the Contract Act, I think that the 2nd defendant by taking an active part in the business after attaining majority has made himself personally liable for obligations of the business contracted after attaining majority. It is therefore unnecassary to consider what would have been the extent of the manging member's authority to pledge his personal credit if after attaining majority he had taken no part in the management, a point as to which the decisions I have quoted are not easy to reconcile.

8. As regards obligations contracted during minority, there is no case in the reports in which it has been attempted to make a member of a Hindu trading family personally liable for such obligations,

and to adjudicate him an insolvent merely on the ground that he took an active part in the business after attaining majority or both before and after attaining it. No such result follows in England where a minor partner after attaining majority continues in the partnership. If such an obligation is to be enforced in India, it can only be on the analogy of Section 248 of the Contract Act which as I have shown is inapplicable. I am not prepared to extend the operation of that section beyond the cases which directly fall within it so as to impose for the first time apparently on the members of a Hindu family a personal obligation for debts contracted in the family business during their minority. In this connection I may refer to the observation of Sausse, G. J., in Ramlal Takursidas v. Lakhmichand Muniram (1861) 1 Bom. H.C.R. App. 51 which was cited with approval by Stanley, C.J., in Bishambhar Nath v. Fateh Lal (1906) I.L.R 29 A 176 at 181 that "the recognition of a trade as inheritable property renders it necessary for the general benefit of the family that the protection which the Hindu law generally extends to the interests of a minor should be so far trenched upon as to bind him by acts of the family manager necessary for the carrying on and consequent preservation of that family property; but that infringement is not to be carried beyond the actual necessity of the case," It is in my opinion going beyond the actual necessity of the case to hold members of a Hindu trading family personally liable for debts contracted during their minority and I am therefore of opinion that the 2nd defendant is only personally answerable for and liable to be adjudicated an insolvent in respect of debts incurred since he attained majority. As there were no such debts, the appeal fails and must, in my opinion, be dismissed with costs.

Sadasiva Aiyar, J.

9. This Letters Patent Appeal was argued with reference to the following questions:

> (1) Did the 1st insolvent debtor V. P. L. ft. M. Eamasami Chetty when he started his Madras business in 1910 intend it to be an individual business of his own in which the gains were to be his self-acquisitions and the liabilities were to be his personal liabilities or did he intend it to be a family business in which his minor son V. P. L.R. M. Palaniappa Chetty, the 2nd insolvent, was to be a sharer as the undivided member of the joint Hindu family consisting then of the father and son?
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> (2) Is a Hindu father of the Nattukottai Chetty caste entitled to begin a trade business in such a manner that it be comes an undivided family partnership business in which his minor son gets an interest along with his father ?
>
> (3) Taking it as the law that a minor member of a trading joint family is not liable for the trade debts beyond the extent of his interest in the family property (in other words, that the property which belongs to the minor by collateral inheritance etc., as his separate property is not liable for such debts) does that same limitation on lability apply also in favour of the adult male members of the family partnership provided they do not take active part in the conduct of the business ?
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> (4) Does Section 248 of the Contract Act (or, at any rate, the principle of that section) apply to a member of a joint family who got an interest in the joint family trade when

he was a minor and who after attaining majority did not give public notice within reasonable time of his repudiation of his membership in the partnership ?

(5) Has the 2nd insolvent petitioner by his conduct after he attained majority and by his non-repudiation of the partnership by public notice become personally liable for all the obligations incurred in the family trade by his father during his (2nd insolvent's) minority.

10. Both the father and the son, the two respondents, were adjudicated insolvents on 28th January 1915 on the petition of a trade creditor about 9 months after the 2nd insolvent attained majority. The 2nd insolvent applied in September 1915 to have the adjudication so far as he was concerned cancelled on the ground that he was not personally liable for the debts incurred by his father in the cloth trade business begun in l910 when he was a minor, and that he was willing that his share in the ancestral family house might also be taken possession of by the Official Assignee for satisfying the creditors.

11. Mr. Justice Bakewell held that, having regard to the customs and manners of Nattukottai Chettys and their usually initiating their minor sons into the family business even before they attain majority, to the father and the son using the same Chetty Vilasam of 4 or 5 initials before their respective names, to the business having been carried on under that, Chetty Vilasam and to the 2nd insolvent-debtor's having failed to give notice of the repudiation referred to in Section 248 of the Contract Act, the 2nd insolvent was taken in as a member of a family firm by his father and continued to be such till he was adjudicated insolvent after he' attained majority and that he was therefore personally liable for the debts of the firm and that he was properly adjudicated insolvent. On this view, he refused to cancel the 2nd insolvent's adjudication. The question whether Section 248 of the Contract Act directly applied or whether the principle of that section could bs applied to Hindu family trading firms or whether there should be active carrying on of trade even as regards an adult member of the firm in order to make him personally liable and whether the 2nd respondent did actively carry on such trade after he became an adult have not expressly been dealt with in the learned Judge's judgment. On appeal by the 2nd respondent, the learned senior Judge (agaipst whose judgment this Letters Patent Appeal is filed) held that as the Madras business was not an ancestral business inherited by the father and son, but was started by the father newly in 1910 and as the 2nd respondent who was then a minor could not give his consent to his (father's) treating it as a joint family business and as no definite act (such as "allotment of a share or distribution of profits or something of an analogous character") has been proved to have been done by the father, the evidence was insufficient to show that the 2nd respondent was admitted to the benefits of his father's business as a partner when he was a minor. The learned Judge further held that even if the business was a joint family business, the appellant would not be personally liable; but only his share in the property acquired out of the proceeds of the trade and in the ancestral property would under the Hindu Law be liable for the debts. He relied for this conclusion on the decisions in Chalamayya v. Varadayya (1898) I.L.R. 24 Mad 166 and in Sheik Ibrahim Tharagan w. Rama Aiyar (1911) I.L.R. 35 Mad. 692 (The name of the case should be Sanka Krishnainurthi v. Bank of Burma). The other learned Judge (Phillips, J.) held on a consideration of the fact that there was a nucleus of ancestral property on whose credit presumably the business at Madras was launched and on a consideration

of the conduct of the father and son, that the business was a joint family business and that under Section 248 of the Contract Act the 2nd respondent became fully liable as a partner for the debts incurred during his minority.

12. On the questions of fact involved in the case, I am, after the best consideration which I have been able to give to them, inclined to agree with the trial Judge and with Phillips, J, that the father intended it from the very beginning to be a joint family business belonging to himself and his son and that the son accepted the position after he attained majority. The evidence required to arrive at such a conclusion need not be so strong in the case of Nattukottai Chettys whose ancestral properties even are presumed.to be involved in all the trade businesses carried on by them see Chidambaram Chetty v. Ramasami Chettiar (1914) 27 M.L.J. 631, and Arunachallam Chetty v. Velliappa Chetty (1914) 27 M.L.J. 654, The Bank of Bengal v. K, P. Ramanadhan Chetty (1915) M.W.N. 180 and A.A.O. No. 319 of 1914 as in the case of Hindus belonging to a community whose family business is not trade. It appears from one of the affidavits on record that the father and son raised Rupees 3,000 on the mortgage of their ancestral house in respect of certain debts connected with the Madras business and it is significant that this allegation in the affidavit on the other side has not been sought to be denied by the respondents in the evidence given before the court by them. Though a partnership under Section 239 of the Contract Act is based on " agreement" and though a minor cannot enter into a valid agreement as regards other matters, Section 247 of the Contract Act allows the admission of a minor partner into a business, thus creating an exception to the usual rule as to agreements being valid only as between majors. Further, partnership in a family business does not depend upon the consent of the partners in many cases see Anant Bam v. Mansa Ram (1916) 32 I.C. 780 but upon the family being a trading family and the business being conducted for the benefit of the family, persons barn into the family from time to time becoming partners as a matter of course. While the acts of a son who assists his father in the latter's separate business may not be evidence of partnership in a case where the father does not belong to a trading community "See Narasimhappa v. Chinna Kenchappa (1917) 38 I.C.244, the fact that a Nattu-kottai Chetty's son assists his father in the trade business carried on under the family Vilasam, both while he was a minor and after he become a major raises a reasonable inference that he was always a partner with his father in a family business. I think that the right of a Hindu father belonging to a trading community to begin a lawful and ordinary trade business as a joint family business in which himself and his minor sons were to be partners cannot be disputed.

13. On the above conclusions I think Section 248 of the Contract Act applies and the 2nd respondent had become liable (on the date of the creditor's petition) equally with his father for the trade debts contracted by his father from the very beginning of the business.

14. As regards Chalamayya v. Varadayya (1898) I.L.R. 22 Mad. 166, it was not a case of a debt due by a partnership family business to which Section 248 of the Contract Act could be applied but an ordinary family debt incurred by the manager for a family purpose. Though that case could be distinguished on that ground, I wish to state that in my opinion, the adujt junior members of a joint Hindu family and the minor members after they attain majority are personally liable and to the extent of their separate properties also (that is, not merely to the extent of their interests in joint family properties) for debts incurred for family necessities by the managing member who is the

agent of the family entitled to pledge the credit of all the family for debts incurred for family necessity-I think the texts quoted by Subramania Aiyar, J., at pages 170 and 171 clearly imply such personal and extended liability, I am, with great respect, unable to agree with the learned Judge in his interpretation of those texts. In Gokal Kastur v. Amarchand (1907) 9 Bom. L.R. 1289 Chandavarkar, J., in considering Chalamayya v. Varadayya (1898) I.L.R. 22 Mad. 166 says at page 1292 : 'whether that decision laying down that principle was correct according to Hindu Law or not, it is unnecessary to decide in the present case. It is sufficient however to-say that we have serious doubts about the correctness of the principle". I am further inclined to doubt the correctness of the decisions quoted to us that the personal liability of th,e adult male members in a joint family partnership depends on their being proved to have taken an active part in the business. As regards Sanka Krishnamurthi v. Bank of Burma (1911) I.L.R. 35 Mad. 692 the defendant in that case was a minor even on the date of the suit and the direct question involved was the right of the minor's mother acting as his guardian to give a power of attorney to an agent of such a wide character as to make the minor personally liable for debts incurred by such agent even in fraud of the minor and whether when the guardian herself cannot china the benefit of indemnity against the minor's property, the creditor can claim any right of subrogation to that benefit. As regards the observations in Waghela Rajasanji v. Sheikh Masludin (1897) I.L.R. 11 Bom. 551 all that they amount to is that the covenant of a mere guardian cannot impose a personal liability on the minor ward. But the personal liability of a minor partner for a family partnership debt is created not by the contract made for him by his guardian as such but by the rules of Hindu Law and of partnership law by which the debt incurred by a major manager of Hindu family partnership business has to be paid personally by the minor members also.

15. In the result, I would hold that both independently of the Contract Act, that is, by the rules of Hindu Law and by Section 248 of the Contract Act also (as I think that that section too applies though it is not necessary to rely on it) the 2nd respondent was personally liable for all the debts in respect of the non-payment, of which he was adjudicated an insolvent and I would restore the judgment of Bakewell, J. allowing the appeal.

Spencer, J.

16. The question for our decision is whether the respondent, who belongs to a Nattukottai Chetty trading family is personally liable for the trade debts of that family incurred before he attained majority, or whether he is not liable at all personally. The respondent attained majority in April 1914 and was adjudicated insolvent in January 1915.

17. If he was a partner, it will follow from Section 249 of the Contract Act that he is personally liable for the ordinary debts of the firm incurred while he was a partner.

18. Persons, who by their words V conduct lead others to believe them to be partners and persons who get credit by allowing themselves to be represented as partners incur all the responsibility of partners under Sections 245 and 246.

19. Minors in this country are incapable of becoming partners in their own right; as by Section 11 of the Contract Act they are declared to be not competent to contract. But they may be admitted under Section 247 to the benefits of partnership, upon which their share becomes liable although they incur no personal liability. Such persons on attaining majority become ipso facto liable under Section 248 for all obligations incurred by the partnership from the date of their admission to the benefits, unless they publicly repudiate the partnership.

20. Such being the general effect of the Contract Act on the question, I will first consider the respondent's liability for the firm's debts incurred during his majority. In Nattukottai Chetty families there is ordinarily no distinction made between the trade assets and the family property (vide Chidambaram Chetty v. Ramasami Chettiar (1914) 27 M.L.J. 631 and Arunachallam, Chetty v.' Vellayappa Chetty (1914) 27 M.L.J. 654. It has not been shown that in this particular family any family fund was kept apart from the trading capital. No attempt has been made to prove that the respondent at any time repudiated the partnership. There is evidence that the respondent both when a minor and when adult, took an active part in the business of the shop, sitting by the safe, looking after the accounts, collecting money, and signing receipts for the delivery of bales of piece-goods. There were 4 or 5 gumastahs in the shop, but the respondent, unlike them, received no salary for the work he did in his father's business.

21. The practice of Nattukottai Chetty firms trading under trade initials has been frequently recognised in decisions of this Court. One of such decisions is that of Mungumal Jessa Singh v. A.L.V.R. C. T (1908) 4 M.L.J.T. 309. The initials under which this family traded appear to have been V. P. L.R. M. The affidavit presented by the respondent to the Insolvency Court commenced thus :-" 1. V. P. L.R. M. Palaniappa Chetty, son of V. P. L.R. N. Ramasamy Chetty, a Hindu of the Nattukottai Chetty caste, aged about 19 years, * * ** do hereby solemnly and sincerely affirm, and say as follows" and was signed in Tamil by the respondent, "V. P. L.R. N. Pataniappa Chetty", thus denoting his consciousness that he belonged to the V. P. L.R. M. firm of which his father, who prefixed the same initials to his name, was a partner.

22. I think that the respondent's conduct in taking an active part in the business after becoming a major was such as to lead others to act on the belief that he was a partner. He was also in the words of Melvill, J., in Samalbhai Nathubhai v. Someshwar (1880) I.L.R. 5 Bom. 38 a " joint owner of a trading business created through the operation of Hindu Law between the members of' an undivided Hindu family." I accept the principle laid down by Chandavarkar, J., in Vadilal v. Shah Khushal (1902) I.L.R. 27 Bom. 157 that mere co-parcenership does not give rise to a presumption that a business carried on by one of the co-parceners in a joint family is a family business. It must also be shown that the business was set up with the aid of family funds. This follows in the present case from the fact that the respondent belongs to a Nattukottai Chetty trading family and that in such families the decisions in Chidambaram Chettiar v. Ramaswami Chetty (1914) 27 M.L.J. 631 and Arunaehellam Chetty v. Vellayappa (1914) 27 M.L.J. 654, quoted above, recognise the existence of a certain custom. It has further been shown that the respondent took an active part in his father's business. The onus therefore would lie on him of proving that he was not a partner during his majority. I think that both under Hindu Law and under the Contract Act the respondent would be personally liable for partnership debts incurred after he came of age. It is however conceded that all

the debts concerned in this adjudication were debts incurred during the respondents minority.

23. The question of the respondent's personal liability for debts incurred during his minority is a more difficult one. His share " is no doubt liable under Hindu Law. Vide Raghunathji Tarachand v. The Bank of Bombay (1909) I.L.R. 34 Bom. 72. If he was not a co-parcener in a trading family, his share would still be liable if he was admitted while a minor to the benefits of partnership (Section 247 of the Contract Act), but not otherwise.

24. But as I observed in Gangayya v. Venkatramiah (1917) 34 M.L.J. 271, a definite, and conscious act on the part of the other partners is needed for admitting a minor to the benefits of partnership. I do not find that it has been any where defined what are the acts which would constitute admission to the benefits of partnership, Mr. Justice Abdur Rahim considers that it implies some definite act such as the allotment of a share or the distribution of a part of the profits or something of an analogous character. In Anant Bam v. Channu Lal (1903) I.L.R. 25 All.378, there is an observation that admission to partnership can only be with the umnimous consent of those who are already partners. I am clearly of opinion that admission to the benefits of partnership means something more than the mere incident of birth in a particular family. The equivocal acts of the respondent during his minority would not have the effect of investing him with the responsibility of a partner. I think that Sections 245 and 246 of the Contract Act can be applied only to the conduct of persons who are competent to contract and not to minors. Mr. Mayne in his Hindu Law says that one of the principles of partnership in England which is that a partner must be a person to whom the other partners are willing to delegate. their authority and capable of binding them by their acts is the same in India. This would naturally exclude minors. Also no new persons can be introduced into the management without special agreement. A manager is chosen for his special aptitude for business. 'So also it would appear that not every minor born in a trading family would, as a matter of course, be admitted to the benefits of partnership, but that there must be some agreement on the part of the partners to admit him, some "consentient act" as Mr. Justice Bale calls it in Latchmanan Chetty v. Sivaprakasa Mudaliar (1899) I.L.R. 26 Cal. 349.

25. In the present case, there being no proof of the respondent's admission to the benefits of partnership during his minority, he is not personally liable under Section 248 of the Contract Act for debts incurred by the firm during his minority now that he has attained majority.

26. Equally he is not personally liable under Hindu Law for debts contracted by the manager of the firm during his minority for it is settled law that a personaal liability cannot be imposed on a minor by the covenant of his guardian and manager, vide Waghela Rajsanji v. Shekh Masludin (1887) I.L.R. 11 Bom. 551, Maharana Shri Ranmal Singji v. Vadila Vakhut Chand (1894) I.L.R. 20 Bom.61 and Sankakrishnamurthi v. The Bank of Burma (1911)I.L.R. 35 Mad.692.

27. In the result, I agree with the learned Chief Justice that the respondent could have been declared insolvent in respect of debts, if any, incurred during his majority, but that debts incurred before that event should not be taken into account in the adjudication proceedings.