

Quaid-i-Azam as Magistrate

Dr. Riaz Ahmad



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BOOKS BY DR. RIAZ AHMAD

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FOREWORD

A great deal has been written about Quaid-i-Azam Mohammad Ali Jinnah as a leader, statesman, politician, parliamentarian and even as a lawyer but, to my knowledge, this is the first time that somebody has attempted a work on Quaid-i-Azam Mohammad Ali Jinnah as a Judge. I would, therefore, congratulate Dr. Riaz Ahmad for his bringing to light an aspect of Quaid-i-Azam's work about which hardly anything was known so far.

The Quaid-i-Azam was only 24 years old when, in May 1900, he was appointed as a Presidency Magistrate in Bombay. He served in this capacity for only six months but thanks to the efficiency of a daily newspaper of those days the *Bombay Gazette*, that reports of 73 cases, decided by the Quaid-i-Azam as a Presidency Magistrate, are available for perusal. These cases relate to petty offences committed in the world famous port city of Bombay at the turn of the century that were brought before the Magistrates for trial and provide an interesting picture of Bombay society of those days. Since the *Bombay Gazette* was a daily newspaper and not a legal journal it was naturally interested in providing such details of the offences brought for trial which were of public interest and though mention of the ultimate order passed in the case is made yet no reference was made to the reasoning employed for reaching the decision. Thus, though we have the account of the 73 cases which Mr. M. A. Jinnah tried as the Presiding Magistrate over Esplanade Police Court between May and November 1900, unfortunately the text of the

orders which could throw light on the reasoning underlying the decisions and the standard of legal acumen the young jurist had by then attained cannot be assessed. Anyhow glimpses of Mr. Jinnah's sterling character can be gleaned even from the fragmentary accounts available to us as also the very valuable letter written by him to Justice Badruddin Tyabjee seeking his advice in connection with an incident which took place in his Court with a lawyer which Dr. Riaz has thoughtfully included in his book.

In this case, an Advocate of one of the parties (Mr. J) prayed for an alteration in a date which was already fixed for the trial of some case but the counsel for the other side was not present and Mr. Jinnah did not feel inclined to alter the date *ex-parte*. At this stage, Mr. J. stated that the counsel for the other party had consented to the alteration. The remaining part of the incident is explained by Mr. Jinnah in his letter to Justice Badruddin Tyabjee, as follows:

“When I heard this I said to him: “This is very extraordinary. A few seconds ago I was given to understand that there was no consent”. Instead of trying to explain to me or satisfy me as to this contradiction Mr. J. flew into a rage and in a much insulting tone said: “Do you mean to doubt my word”. I called him to order but he repeated the same question. I then got very angry and said if he had nothing better to say I decline to take his word unless he went into the box. So long as he behaved like this I won't take or act upon his word. Then he called out some words, one of them only I heard and it was “scandalous”. I then called upon him to withdraw the word and apologize

Now the truth of the matter is that Mr. J. wanted to get the date altered anyhow. He tried first by one means and he failed. So he tried the second saying he had Mr. Velinkar's consent. When I doubted it, instead of explaining or satisfying me he went into a rage and I,

of course, got angry and declined to rely on his words because it created suspicion which grew worse when he won't explain the cause of contradiction."

Mr. Jinnah then went on to add:

"I am really sorry to bother you with this. I wish to tell you a great deal more about the case of this mischief. There are some people who disapprove of my appointment and they are stirring up Mr. J. But I don't wish to bother it now any more. I have really no desire to be confirmed but at the same time I do not wish to do anything which might reflect upon the bar or our community."

This letter shows the concern of the young Jinnah not to do anything which might reflect upon the "bar or the community". It also shows his disinterestedness in continuing in office. However, as long as he held a judicial office he could not countenance anything which might reflect upon his complete impartiality or upon judicial propriety.

Again, in a case where a revision was taken against one of his orders before the High Court on the plea that he had not recorded all the evidence for the defence, which plea was supported by the affidavit of the counsel for the accused, Mr. Jinnah addressed a letter to the Deputy Registrar of the High Court in which among other things he said that the affidavit was full of misrepresentations and far from the truth in many places so far as it affected him. He, however, added that it was far from his desire that the least injustice should be done to an accused person owing to the clumsy advocacy of his pleader and he thought that the case should be sent back to hear evidence if the accused really and honestly intended to call evidence. The High Court, in disposing of the case, observed that the Magistrate was perfectly justified in what

he did; but in order that the accused might not be at any disadvantage by reason of his pleader's mistake, the Court set aside the conviction and directed the magistrate to hear the evidence for the defence.

These incidents and some others mentioned in this book reflect the courage of Mr. Jinnah and indicate that even at that young age he had acquired the strength of character that once he had made a decision he would stand by it and not budge therefrom or be brow-beaten into changing it. This unique quality of his character proved a valuable asset for the Muslim Nation and helped him to lead the Nation unswervingly to the goal of Pakistan, refusing to accept anything short of it despite every pressure and temptation being brought upon him.

Dr. Riaz Ahmad has done us a great service by bringing to our attention an aspect of Quaid-e-Azam's life about which so little was known.

Mr. Justice DR. NASIM HASAN SHAH
(now Chief Justice)
Supreme Court of Pakistan

PREFACE

In this collection 73 cases decided by Quaid-i-Azam Mohammad Ali Jinnah as acting third Presidency Magistrate for six months during May–November 1900 are reported in verbatim from the *Bombay Gazette*, a daily issued from Bombay. The titles of these cases are also the same as appeared in this newspaper. The speciality of these suits is that none of these cases have so far been published or referred to in any of the works on Jinnah.

In these newspaper reports Jinnah's name is usually reported as "Mahomed Ali Jinnah" or "M. A. Jinnah". In this connection it may be noted that it was towards the close of his career that his name came to be spelt as "Mohammad Ali Jinnah"

In some suits it may be observed that final order/judgement is not passed. The case seems to continue further and the coverage of final decision is missing. This is because the report of the next date either did not appear in the newspaper or it was inaccessible to the author. Despite this the importance of these cases do not decrease in any sense since this is the first information on Jinnah's functioning as magistrate. This information was collected by me as part of my Ph.D. thesis entitled "Quaid-i-Azam Mohammad Ali Jinnah: the Formative Years 1892–1920", recently approved by the Quaid-i-Azam University, Islamabad.

My thanks are due to all the librarians and the friends who helped me in compilation of this work, particularly the Director, Dy. Director (Mr. Martin Moir) and staff of the India Office Library, London. The friends who advised me to publish these cases in the first instance are to be commended. I am grateful to Mr. Justice Dr. Nasim Hassan Shah of the Supreme Court of Pakistan for writing foreword of this book. However, for the opinions expressed and the analysis presented in Introduction to this work, the responsibility is that of the author alone.

*Islamabad,
December 25, 1984*

Riaz Ahmad