

Reg Vs. Sambhu Raghu

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SooperKanoon Citation : sooperkanoon.com/331218

Court : Mumbai

Decided On : Sep-07-1876

Reported in : (1877)ILR1Bom347

Judge : Melvill and ;Nanabhai Haridas, JJ.

Appellant : Reg

Respondent : Sambhu Raghu

Judgement :

1. The Acting Sessions Judge has considered this, case very carefully, and the Court agrees in his conclusion. The Court does not find it established that there is any valid custom by which a woman of the caste of the first accused can claim a right to marry again, because her husband is a leper, and without having obtained a release from him. The Court does not recognize the authority of the caste to declare a marriage void, or to give permission to a woman to re-marry. The wife in this case, and the appellant, who performed the ceremony of re-marriage, probably acted in a bond fide belief that the consent of the caste made the second marriage valid; but though that circumstance may be taken into account in mitigation of punishment, it does not constitute a defence to a charge under Section 494 of the Indian Penal Code, or under that section combined with Section 109 of the Code. The Court confirms the conviction; but, as the appellant has already undergone imprisonment for 25 days, it remits the remainder of his sentence.

