

Emperor Vs. Lala and ors.

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Court : Allahabad

Decided On : Sep-01-1909

Reported in : 5Ind.Cas.176

Judge : Tudball, J.

Appellant : Emperor

Respondent : Lala and ors.

Judgement :

Tudball, J.

1. One Gobardhan filed a complaint in the Court of a first class Magistrate, against Badam and Lala to the effect that Badam's daughter was married to Gobardhan's son, that Badam had come to Gobardhan's house and taken away the girl and re-married her to Lala, that on his going to Lala's house, Lala prevented the girl from returning with him though she was willing to do so. On these allegations Gobardhan preferred a charge under Section 498, Indian Penal Code, against Badam and Lala. The Magistrate added Musammatt Nihalo, the daughter of Badam as an accused person and has committed all three for trial to the Court of Sessions, on a charge of bigamy under Section 494, Indian Penal Code. The learned Assistant Sessions Judge has referred the matter to this Court asking that the commitment might be quashed on the point of law that there is no complaint by a person aggrieved of an offence under Section 494, Indian Penal Code. It is quite

clear that no charge of bigamy has been preferred by either the husband of Musammat Nihalo or Gobardhan. In the case of bigamy the person aggrieved is either the first husband or the second husband. In the present case the first husband though sixteen years of age has preferred no complaint; neither has the second husband. I do not think that the father of the first husband can, under the circumstances of the present case, be deemed to be the person aggrieved. There is, therefore, no valid complaint of the offence under Section 494, Indian Penal Code, and the provisions of Section 198 of the Code of Criminal Procedure have not been complied with. The commitment, therefore, is bad and is hereby quashed. The Magistrate will, proceeded to deal with the complaint under Section 493 according to law.

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