

**Ramdhani Vs. Swamidin**

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**SooperKanoon Citation :** [sooperkanoon.com/498342](http://sooperkanoon.com/498342)

**Court :** Madhya Pradesh

**Decided On :** Nov-22-1952

**Reported in :** 1953CriLJ963

**Judge :** Krishnan, J.C.

**Appellant :** Ramdhani

**Respondent :** Swamidin

**Judgement :**

ORDER

Krishnan, J.C.

1. Upon a complaint by his brother-in-law Swamidin, the applicant Ramdhani was convicted by the Magistrate, Beohari, under Section 500, I.P.C. for defaming his own wife, and was sentenced to pay a fine of Rs. 250/-. The appeal being dismissed he has come up in revision. The point of law is whether the court could have taken cognisance of this complaint not by the person actually defamed but by her brother.

2. The facts of the case are common ground for the most part. The applicant had married s the complainant-opposite party's sister. There was some unpleasantness and the wife went away from the applicant and began to live at the place of her brother. From time to time there were attempts to reconcile the two; ultimately, pressed by the brother to take back his wife, the applicant alleged that

her reputation has become bad, and that it was widely reported that she was having an improper intimacy with a barber of her brother's village. On receipt of this letter the brother, that is the complainant, asked the applicant to come to his village, discuss the matter and be satisfied. The husband accordingly went and had some argument in the presence of some caste-men during which he also repeated the allegation that he had learnt that his wife had improper intimacy with a barber. Instead of there being any reconciliation the matter became worse and the split was complete. Sometime after that, the brother started this case. At this stage we are concerned not with the facts, but with the question of law whether Section 198, Criminal P.C. did not bar cognizance.

3. One has to distinguish between a complaint by the brother filed on behalf of his sister with the leave of the court granted under proviso to Section 198, Criminal P.C. and a complaint by him on his own as the person aggrieved by the defamation. In the former case the complaint is really one by the woman defamed, the de facto complainant being only a sort of best friend acting in those special circumstances. The present complaint however belongs to the latter class. The question therefore becomes one of fact whether the brother in such circumstances is the person aggrieved by the husband's allegation that the woman is guilty of unchastity.

4. This is not a case in which the brother is in charge of a minor or a widowed sister, and is by the sheer necessity in the position of a de facto guardian personally responsible for her good name. The woman is grown up and happened to go and stay with the brother only because of her quarrel with her husband. In the case reported in - *Chhotalal v. Nathahbai* 25 Bom 151 (F.B.), it was held that the husband can bring a complaint on his own for the offence of defamation imputing unchastity to his wife. This is obvious because the husband is directly injured by an allegation that his wife is unchaste. In the present case it is the husband, who is the alleged defamer of his own wife. In the case reported in - *Thakur Das v. Adhar Chandra* 32 Cal 425 the brother was allowed to bring a complaint on his own as the person aggrieved by imputation of unchastity to the widowed sister. The report does not show clearly whether the widowed sister was a minor, but it does state that she was living at that time under 'the guardianship of

her brother'. In other words, in those circumstances the brother was personally responsible as the de facto, if not, also the de jure guardian, for the good name of the widow. So an imputation of unchastity was calculated directly to lower him in the eyes of the public.

In the present case, however, the woman came to the brother as a result of a domestic quarrel and was not under his guardianship, nor was the brother under any responsibility-to take care of her good name. So that ruling<sup>1</sup> does not apply to the present case. In the case reported in - Mt. Harbans Kaur v. Lahiri Ram AIR 1938 Lah 739 it was held that the father could bring a complaint on his own for the imputation of unchastity to a minor daughter. In such a case the father's personal responsibility as the guardian for the good name of his daughter is obvious, so an allegation of unchastity is a direct grievance of the father as well as of the minor daughter. That ruling also does not apply to the present case.

4a. The applicant has further pointed out that the charge that he laid before the villagers was one in good faith made with a view of vindicating his own honour, and getting satisfaction that his 'wife had been leading a chaste life; so he pleads the exception of good faith. 'Such a defence certainly calls for due consideration, but it need not be gone into here. In my opinion, the court had no jurisdiction to take cognizance of the present complaint. It would certainly have been different if the complainant had sought and obtained leave under the proviso to Section 198, Criminal P.C.

5. The result is that the application is allowed and the conviction and sentence are set aside, and the fine, if paid, should be refunded.