

Amina Vs. the Queen Empress

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Court : Chennai

Decided On : Feb-18-1884

Reported in : (1883)ILR7Mad277

Judge : Hutchins and ;Brandt, JJ.

Appellant : Amina

Respondent : The Queen Empress

Judgement :

Hutchins, J.

1. We see no reason to question the correctness of the findings of the Judge, in which the Assessors concurred.
2. We also think he was right in accepting the opinion of the Assessors to the effect that the girl was sold 'as a slave.' They stated that the use of the word 'vellati,' as understood by Mapillas in North Malabar, clearly showed the girl was sold as a slave and not otherwise.
3. As regards the appellant, Amina, it was contended by counsel, first, that it was not conclusively shown that the girl was sold as a slave; secondly, that, even if so, there is no reason to suppose that appellant knew that she was doing anything contrary to custom. ,

4. The second contention may be of some force in considering the punishment awarded, but cannot affect the question as to the offence.
5. The following cases were referred to and considered : The Queen v. Mirza Sikundar Bukhut I.L.R. 2 All. 723 and Empress v. Ram Kuar 1871 NWP 146.
6. The facts in the latter case differ materially in some respects from those in the case before us, but we agree with the learned Judges that the sections of the Code in Chapter XVI having special reference to this subject 'were enacted for the suppression of slavery not only in its strict and proper sense, viz., that condition whereby an absolute and unlimited power is given to the master over the life, fortune and liberty of another, but in any modified form where an absolute power is asserted over the liberty of another 'against' a selling or disposal' of a human being 'whereby one, who claims to have a property in the person as a slave, transfers that property to another.'
7. In this case we have no doubt that Supi transferred or purported to transfer his supposed rights of property in the girl Bhima to Amina for money.
8. The opinion of the Assessors on this point and as to what is implied in the word 'vellati' is of very great weight.
9. But while we uphold the conviction in the case of Amina also, we think that, having regard to the facts that such conduct is probably the result of an old state of things now happily passing away, that the woman Amina appears to have acted with little or no secrecy in the matter and made no objection to giving up the girl, though she wished to have her money back, and that there is no evidence that the girl was cruelly or even harshly treated by the appellant, the imprisonment which she has already undergone (three months nearly) will suffice, and we remit the remainder of the sentence. The appellant is, it is understood, at present on bail pending disposal of this appeal.