

Queen-empress Vs. Paul and ors.

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Court : Chennai

Decided On : Sep-30-1896

Reported in : (1897)ILR20Mad12

Judge : Subramania Ayyar; Justice Davies, JJ.

Appellant : Queen-empress

Respondent : Paul and ors.

Judgement :

1. We cannot accept the Judge's interpretation that the word 'solemnize' as used in the Act applies to only such marriage ceremonies as are performed by some person possessing or claiming authority to perform Them by virtue of ecclesiastical authority. The Judge's view is quite inconsistent with the provisions of the Act which use the word 'solemnization' with reference to marriages before the Marriage Registrar who is an official possessing no ecclesiastical character, and before whom no ceremonies are necessary. A marriage before him is a mere civil marriage and yet the word in question is applied to such a marriage equally with marriages accompanied by religious ceremonial. We, therefore, take the meaning of the word to be equivalent to conduct, celebrate or perform. In this view any person, not being the persons being married, who actually took part in performing this marriage, that is in doing any act that was supposed to be material to constitute the marriage was clearly guilty under Section 68 of Act XV of 1872 as parties either solemnizing a marriage or professing to do so.

2. In the case of the persons being married, we consider a charge of abetment is sustainable as without their presence and aid the marriage could not possibly take place. On this ground the acquittal by the Judge of the third accused was wrong. For these reasons we set aside the acquittal of all the accused and direct that they be retried with reference to the merits of the case.

3. Ordered accordingly.

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