

The Queen Vs. Vyapuri

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Court : Chennai

Decided On : Jul-11-1882

Reported in : (1882)ILR5Mad401

Judge : Kernan and ;Muttusami Ayyar, JJ.

Appellant : The Queen

Respondent : Vyapuri

Judgement :

Kernan and Muttusami Ayyar, JJ.

1. The accused has been convicted of mischief under Section 426 of the Indian Penal Code and sentenced to pay a fine of Rs. 10, commut-able in case of default to four days' rigorous imprisonment, his offence being that he destroyed two documents forming an immoral agreement whereby the complainant allowed his wife to live in adultery with the accused, and she, in consideration of this liberty, agreed to forego her claims to maintenance. The conviction has been referred to this Court as being wrong, inasmuch as the consideration for the agreements being unlawful and the documents having therefore no legal value, their destruction does not amount to mischief.

2. The drafts of the two documents on record purport to cancel the marriage between complainant and his wife and to release them from all marital obligations.

As the parties are Hindus and as the marriage between them is not liable to be cancelled by mutual consent, they are of no value for the purpose which they were intended to carry out. But we are not prepared to hold on that ground that they are of no use for any purpose whatever. It appears that the complainant had been ordered to pay Rs. 2-8-0 a month for his wife's maintenance and that of her children. The documents may be used as evidence of adultery on the part of the wife and of the cessation of the liability to maintain her on the part of the husband. In this sense one of the documents contained an acknowledgment by the wife that she has no right to be maintained by the complainant, and we decline to interfere.

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