

**Queen-empress Vs. Basava**

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**SooperKanoon Citation :** [sooperkanoon.com/784869](http://sooperkanoon.com/784869)

**Court :** Chennai

**Decided On :** Nov-17-1891

**Reported in :** (1892)ILR15Mad75

**Judge :** Parker and ;Shephard, JJ.

**Appellant :** Queen-empress

**Respondent :** Basava

**Judgement :**

**Parker, J.**

1. The evidence shows that a girl, who is dedicated as a Basivi, becomes incapable of contracting a marriage, which would be recognized as valid by the laws and customs of her caste; that she is at liberty and is expected to have promiscuous intercourse with men generally, and that she and any children born to her inherit in her father's family only.

2. The dedication thus made effects a change in the circumstances of the minor which was recognized as a 'disposal' within the terms of Section 372, Indian Penal Code, in the Proceedings of this Court, dated 11th April 1881, No. 746, paragraph 13, (Weir's Criminal Rulings, 3rd Ed., p. 215), and the parents of the minor cannot but be aware that the minor will in consequence live a life which is recognized as immoral.

3. I do not think that any analogy can be drawn as suggested by the Sessions Judge between the dedication of a girl as a Basivi and the formal marriage of a girl in Malabar under the Marumakkatayam law. In Malabar there is no legal marriage, and neither a woman nor her offspring can ever pass into the family of a husband, while among Madigas such is not the case, and a girl, by becoming a Basivi becomes incapable ipso facto, of contracting a legal marriage. Nor do I think that the Basivi is the Madiga equivalent of the 'appointed daughter' under Hindu law, since the latter arrangement neither debars from ordinary marriage nor contemplates the possibility of promiscuous intercourse.

4. I would decline to interfere with the conviction.

**Shephard, J.**

5. Having read the evidence in the case, I agree that an offence is proved and would decline to interfere.

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