

Queen-empress Vs. Butchi

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SooperKanoon Citation : sooperkanoon.com/787934

Court : Chennai

Decided On : May-05-1893

Reported in : (1894)ILR17Mad401

Judge : Muttusami Ayyar and ;Best, JJ.

Appellant : Queen-empress

Respondent : Butchi

Judgement :

1. There is no presumption of law that the wife and husband constitute one person in India for the purposes of criminal law. Theft is an offence against property, and where there is no community of property, each may commit theft in regard to the property of the other. The question is one of intention. If the wife, removing the husband's property from his house, does so with dishonest intention, she is guilty of theft. Her joint possession may in many cases give rise to a presumption that she had authority from her husband to give the property, but this is a presumption of fact, and it may be rebutted. The intent with which the husband's property is removed is a question of fact, and where a dishonest conversion is intended, it clearly amounts to theft.

2. We set aside the Deputy Magistrate's order acquitting the first accused and direct that the appeal so far as she is concerned be restored to the file and disposed of with reference to the above observations.

