

P. Amaldoss Vs. Kamala Amaldoss

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Court : Chennai

Decided On : Jul-28-1937

Reported in : AIR1937Mad794; (1937)2MLJ488

Appellant : P. Amaldoss

Respondent : Kamala Amaldoss

Judgement :

King, J.

1. This Revision Petition is not opposed. The wife's claim to maintenance is not a very strong one. She has waited three years to claim it. The petitioner now offers to take her back. She refuses to go unless he will give up his mistress. Petitioner's case is that Sundari is not his mistress, but the learned Magistrate believes that she is and that he will not desert her. The main point however seems to be that petitioner has never so far insulted his wife as to compel her to live in the same house as his mistress nor does it seem likely that petitioner will now adopt this course of conduct. If he does respondent may justifiably leave him and again claim maintenance. But I am not in agreement with the learned Magistrate that the respondent can exact a promise of sexual fidelity before she returns to live with the petitioner. In *Arunachala Asari v. Anandayammal* : AIR1933 Mad688 my learned brother Burn, J., has held that Section 488, Code of Criminal Procedure, has nothing to do with conjugal rights; and although that case deals with Hindus

there is no reason why its principles should not be extended to the case of Indian Christians. I accordingly allow the petition and quash the order for maintenance.

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