

In Re: Bilasroy Serowgee

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SooperKanoon Citation : sooperkanoon.com/879127

Court : Kolkata

Decided On : Jan-24-1929

Reported in : AIR1929Cal528,121Ind.Cas.635

Appellant : In Re: Bilasroy Serowgee

Judgement :

Lort-Williams, J.

1. In my opinion Section 132(1), Civil P.C. does not apply to examinations under Section 36(1), Presidency Towns Insolvency Act and that the Court in a suitable case may summon before it a purdanashin lady who is known or suspected to have in her possession any property belonging to the insolvent. Section 37 gives the Court power, if it thinks fit, instead of summoning such a purdanashin lady to Court, to issue commissions or letters of request. That power is discretionary. Further, I am of opinion that the correct meaning of Section 132(1), Civil P.C. that a lady who according to the customs and manners of this country ought not to be compelled to appear in public shall be exempt from personal appearance in Court that is, from being exposed to the public gaze, such a person is exempt not from attendance in Court but from appearance in Court. I think 'appearance' means that she shall not be compelled to come forth into view or become visible to the public gaze. A method is provided in this country by which such ladies can be moved from place to place, in a palki, and in my opinion they may be compelled to come to Court in a palki so long as they do not become visible to the public gaze. It

follows therefore, that if the examination of the ladies be taken by the registrar in his private room, the public being excluded therefrom, and they being concealed from the gaze of the registrar the parties and the solicitors and counsel appearing in the enquiry their feelings and sentiments will be considered sufficiently. Therefore, I order that these ladies be examined in the manner which I have indicated.

2. With regard to the question of costs, I have dealt with this matter on the footing that these ladies are not in contempt but in my opinion they are in contempt. The order was made properly by the registrar for their attendance. They have taken no steps to set that aside or to appeal from it. The result is that they are in disobedience to an order properly made and are in contempt. I believe that those who have advised them have misconstrued the provisions of these sections. Therefore, I do not inflict any penalty upon them for their contempt but they must pay the costs of this application. I certify for counsel.

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