

JURISDICTION AS COURT OF REVISION.

Before Sir W. Morgan, C.J., and Mr. Justice Innes.

PROCEEDINGS, 5TH DECEMBER 1876.

REG. v. SAMIA KAUNDAN.

Indian Penal Code, Sections 363 and 116—Abetment of Kidnapping.

1876.
December 5.

Accused was convicted by the Magistrate of abetting the kidnapping of a minor. Accused knowing that the minor had left home without the consent of his parents, and at the instigation of one Komaren, the actual kidnapper, undertook to convey the minor to Kandy in Ceylon and was arrested on the way thither. The Sessions Judge reversed the conviction on the ground that there was no concert between the accused and Komaren previous to the completion of the kidnapping by the latter. Held by the High Court, that so long as the process of taking the minor out of the keeping of his lawful guardian continued, the offence of kidnapping might be abetted, and that in the present case the conviction should be of an offence punishable under Sections 363 and 116 of the Penal Code.

UPON reading the records in Appeal Case No. 14 before the Court of Session of Salem, Counsel not appearing, the High Court made the following

RULING.—In this case the Deputy Magistrate convicted the accused of abetting the kidnapping from lawful guardianship of a lad of 11 or 12 years of age and sentenced him under Sections 363 and 109 of the Indian Penal Code to be rigorously imprisoned for nine months.

The actual kidnapping is stated to have been committed by one Komaren, a brother-in-law of the accused.

The accused knowing that the lad had left home without the consent of his parents, and at the instigation of Komaren, undertook to convey the lad and another boy to Kandy in Ceylon, and had proceeded on the way as far as Trichinopoly, when he was arrested.

On appeal the Sessions Judge has reversed the conviction of abetting the offence of kidnapping on the ground that there was no concert between the accused and Komaren previous to the completion of the kidnapping by the latter.

The High Court are of opinion that so long as the process of taking the minor out of the keeping of his lawful guardian continued, the offence of kidnapping might be abetted.

The evidence however shows that the kind of kidnapping attempted was kidnapping from British India, and, as the

1876.
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attempt failed, the conviction should be of an offence punishable under Sections 363 and 116 (not 109).

REG.
v.
SAMIA
KAUNDAN.

The order of the Sessions Judge reversing the conviction is annulled. The accused Samia Kaundan is convicted of an offence punishable under Sections 363 and 116 of the Penal Code, and is sentenced to be rigorously imprisoned for six months.

JURISDICTION AS COURT OF REVISION.

Before Mr. Justice Holloway and Mr. Justice Kindersley.

1876.
December 11.

PROCEEDINGS, 11TH DECEMBER 1876.

Ex Parte POONEN.

Madras Act III of 1871.—Washerman not an artizan.

A Washerman is not an artizan within the meaning of Madras Act III of 1871.

UPON a reference from the Sessions Judge of Tanjore in this case the High Court were clearly of opinion that a washerman is not an artizan within the meaning of Madras Act III of 1871.

PRIVY COUNCIL.

Before Sir James W. Colvile, Sir Barnes Peacock, and Sir Robert P. Collier.

1876.
November 3.

VELLANKI VENKATA KRISHNA RA'O (PLAINTIFF),
v. VENKATA RA'MA LAKSHMI, AND TWO OTHERS
(DEFENDANTS).

On appeal from the High Court of Judicature at Madras.

Hindu Law—Adoption in the Dravida country—Widow's power to adopt with consent of Sapindas—Motives for making an adoption.

According to the Hindu Law, a widow who has received from her deceased husband an express power to adopt a son in the event of his natural-born son dying under age and unmarried, may on the happening of that event make a valid adoption.

Bhoobun Moyes Debia v. Ram Kishore Acharj Chowdry (1) distinguished.

(1) 10 Moo. I. A., 279.