

## APPELLATE CIVIL.

Before Mr. Justice Phillips and Mr. Justice Napier.

RAVANNI ACHAN, APPELLANT (PLAINTIFF)

v.

THANKUNNI, RESPONDENT (FIRST DEFENDANT).\*

*Malabar Law—Claim by an anandravan for arrears of menchilavu for himself and his wife, maintainability of.*

1913,  
April 4.

An anandravan of a Malabar tarwad is not entitled to claim maintenance from his tarwad for his wife, who belongs to another tarwad, and much less is he entitled to claim for her any *menchilavu* (pocket money for meeting expenses other than maintenance). *Parvathi v. Kamaran*, (1883) I.L.R., 6 Mad., 441, referred to and explained.

An anandravan is entitled to a decree from his tarwad for arrears of his *menchilavu*, which in law stands on the same footing as arrears of maintenance. *Kunhammath v. Kunhi Kutti Ali*, (1884) I.L.R., 7 Mad., 233, *Valiya Konikel Edom Kailu v. Lakshmi Nattiyar Ammal*, (1913) 1 M.W.N., 379, and *Govindan Nair v. Kunju Nair*, (1919) 36 M.L.J., 565, followed.

SECOND APPEAL from the decree of G. H. B. JACKSON, District Judge of South Malabar, in Appeal Suit No. 501 of 1917, preferred against the decree of M. C. KRISHNA NAMBIYAR, the District Munsif of Alatur, in Original Suit No. 314 of 1916.

This was a suit for Rs. 1,200 brought by the senior anandravan of an ancient and rich Malabar tarwad in Palghat taluk against the karnavan and other members, being the amount of arrears of *menchilavu* (pocket money for expenses other than bare maintenance) which the plaintiff claimed had not been paid to him for four years before suit. The plaintiff made up his claim of Rs. 300 a year as follows:—clothes, oil and soap Rs. 100; tea, coffee and confectionery Rs. 16; wife's expenses Rs. 100; extras for festivals and carriage hire Rs. 40. The defendants pleaded that for a portion of the period sued for, the plaintiff was given his maintenance, that for the rest of the period he was not entitled to any *menchilavu*, as he was residing away from the tarwad house and was not behaving properly, that the amount claimed was excessive and that the plaintiff was not entitled to claim any *menchilavu* for his wife. The District Munsif allowed the claim in full. On appeal by

\* Second Appeal No. 1287 of 1918.

RAYANNI  
ACHAN  
v.  
HANKUNNI.

the defendants the District Judge held that the plaintiff was not entitled to get (a) any *menchilavu* for his wife who belonged to another tarwad, and (b) any amount for festivals and carriage hire as there were no accounts to corroborate plaintiff's claim therefor, and that Rs. 100 a year was a sufficient amount to cover the other items of expenditure claimed by the plaintiff and gave a decree accordingly. The plaintiff preferred this Second Appeal and the defendants preferred a memorandum of objections.

*C. Madhavan Nayar* and *K. Kuttikrishna Menon* for appellant.

*C. V. Anantakrishna Ayyar* for respondent.

The JUDGMENT of the Court was delivered by

PHILLIPS, J. PHILLIPS, J.—Appellant's counsel contends that an anandravan of a Malabar tarwad is entitled to *menchilavu* not only for himself but also for his wife, who belongs to another tarwad. *Prima facie* a junior member of a Malabar tarwad whether male or female must look to the karnavan of his or her own tarwad for maintenance. If therefore a woman who can claim maintenance from her own karnavan is entitled also to claim maintenance from her husband's tarwad, it gives her a right apparently opposed to the principles of Marumakkattayam law, and we have not been referred to any authority which recognizes such a right except *Parvathi v. Kamaran*(1). That case is, however, no authority for any such proposition of law. This Court merely accepted a finding that such a custom existed in North Malabar and this finding based on the evidence of two witnesses was not objected to. We are not therefore prepared to accept without authority this new proposition of law that a wife is entitled to maintenance from her husband's tarwad, a proposition which, even in *Parvathi v. Kamaran*(1), was described as inconsistent with the principles of Marumakkattayam law. If the wife has not a legal right to bare maintenance *a fortiori* her claim to *menchilavu* which may be termed a luxurious form of maintenance must be negatived.

A memorandum of objections is filed for respondent and it is contended that plaintiff is not entitled to any money allowance from the karnavan and reliance is placed on *Kunhammath v. Kunhi Kutti Ali*(2). In this case, however, no money allowance

(1) (1889) I.L.R., 6 Mad., 341.

(2) (1884) I.L.R., 7 Mad., 233.

is decreed, but only compensation for *menchilavu* not received in the past to which plaintiff has been held to be entitled. This claim to *menchilavu* must be treated as on the same footing as a claim to past maintenance for which undoubtedly a decree could be given. [Vide *Valiya Konikal Edom Kalu v. Lakshmi Nattyar Ammal*(1) and *Govindan Nair v. Kunju Nair* (2)].

RAYANNI  
AGHAN  
v.  
THANKUNNI.  
PHILLIPS, J.

The Second Appeal and memorandum of objections are both dismissed with costs.

N.R.

## APPELLATE CRIMINAL.

*Before Mr. Justice Sadasiva Ayyar and Mr. Justice Spencer.*

GANAPATHY CHETTY AND ANOTHER (ACCUSED), PETITIONERS,

1919,  
April, 14.

v.

REX.\*

*Criminal Procedure Code (Act V of 1898), ss. 177 to 187, 526 and 531—Murder committed outside Madras—Inquiry by Chief Presidency Magistrate and commitment to High Court Sessions—Jurisdiction of Magistrate—Original Criminal Jurisdiction of High Court—Letters Patent, cl. 24—Jurisdiction, whether conferrable under section 526, Criminal Procedure Code.*

The petitioners were charged before the Chief Presidency Magistrate of Madras with having kidnapped a child from his guardian in Madras, with having stolen his jewels from him in Madras and with having taken him out of the city to a place within the jurisdiction of the Sessions Judge of Chingleput and there murdered him. The Chief Presidency Magistrate, after inquiry, committed the petitioners to the High Court Sessions on the abovesaid charges.

On an application to the High Court on its appellate side to set aside the commitment so far as the charge of murder was concerned on the grounds that (a) the Magistrate had no local jurisdiction to inquire into the case, and (b) the High Court had no local jurisdiction to try the charge of murder :

*Held* (i) that the irregularity or illegality, if any, in the Magistrate's proceedings was cured by section 531, Criminal Procedure Code, (ii) that, even if the High Court had no jurisdiction on its Original Side to try the case, an order could be made under section 526, Criminal Procedure Code, directing the trial at the High Court Sessions. Ordered accordingly.

*Semle.*—The High Court has power under clause 24 of the Letters Patent in the exercise of its original criminal jurisdiction to try persons for offences committed outside the City of Madras.

\* Criminal Miscellaneous Petition No. 159 of 1919.

(1) (1919) M.W.N., 379.

(2) (1919) 36 M.L.J., 565.