

“ But so well established is the custom that the High Court has held that the maintenance of the “ wives ” and children of the junior members (residing with their “ husbands ” in the husband’s tarwad) is a charge which the karnavan of the junior members is bound to meet. The High Court allows that the ruling would seem inconsistent with the principles of Marumakkathayam law, but the answers to the interrogatories and the evidence taken by the Commission show that the *ruling is really and truly in accordance with existing usage.*” (The italics are ours.)

For the above reasons, we hold that the lower Court’s decree awarding the plaintiff the expenses for his marriage is correct. It has not been argued before us that the amount is excessive. This Second Appeal is dismissed with costs.

K.R.

SESHAPPA
SHETTY
v.
DEVARAJA
SHETTY.

APPELLATE CIVIL.

Before Mr. Justice Devadoss and Mr. Justice Waller.

PONTHINODA AHMED KOYA AND OTHERS (PETITIONERS)

v.

1925,
September
21.

ILLIKKAKKAD AISAMMA AND OTHERS (RESPONDENTS).*

Laccadive Islands—British India—Cession of territory—Sovereignty—Laccadive Islands, when became part of British India—Law applicable to the Islands—Regulation I of 1912, sec. 3—Scheduled Districts Act (XIV of 1874)—Laws Local Extent Act (XV of 1874)—Appeal to High Court from order of Inspecting Officer of Laccadives—Delay in presentation of appeal—Power to excuse delay—Indian Limitation Act (IX of 1908), sec. 5, whether applicable.

The Laccadive Islands became part of British India only in 1909 when they were ceded by the Bibi of Cannanore to the British Government, until which time the sovereignty was vested in the Bibi.

* Civil Miscellaneous Petition No. 1332 of 1924.

AHMED KOYA
 v.
 AISAMMA.

By Regulation I of 1912, section 3, the ordinary law of British India is not applicable to the Laccadive Islands, but only certain enactments specified therein, including the Scheduled Districts Act (XIV of 1874) but not the Laws Local Extent Act (XV of 1874), are made applicable to the islands; and no notification has been issued under section 3 of the Scheduled Districts Act, 1874, by which the Indian Limitation Act has been extended to the islands.

Consequently, the High Court has no power, under section 5 of the Indian Limitation Act, to excuse the delay in the presentation of an appeal preferred to it against an order of the Inspecting Officer of the Laccadive Islands.

The decision in *Queen Empress v. Cheria Koya*, (1890) I.L.R., 13 Mad., 353, is erroneous as it is based on a misapprehension that the Laccadive Islands were part of British India ever since 1792.

PETITION presented to the High Court to excuse the delay in presentation of an appeal against order (S.R. No. 1604 of 1924) against the order of the Inspecting Officer of the Laccadives in Case No. 6 of 1923 of Agathi Island, Laccadives.

This is an application presented to excuse the delay in an appeal preferred to the High Court against the order of the Inspecting Officer of the Laccadive Islands. Under Regulation I of 1912, section 17, the period prescribed therein for presentation of an appeal to the High Court is six months excluding the monsoon months, June to September both inclusive. The petitioners applied that the delay may be excused for reasons stated in the affidavit, namely, that there were severe storms for three months which prevented the parties from leaving their places, and they relied on the provisions of section 5 of the Indian Limitation Act.

K. P. Padmanabha Pillai for petitioners.

B. Pocker for respondents.

Government Pleader (C. V. Ananthakrishna Ayyar),
amicus curiae.

JUDGMENT.

DEVADOSS, J.—This is an application by the appellant AHMED KOYA to excuse the delay of 182 days in presenting S.R. No. v. 1604 of 1924 (Civil Miscellaneous Appeal) against the ATSANMA. order of the Inspecting Officer of the Laccadives in Case DEVADOSS, J. No. 6 of 1923 of Agathi Island.

Mr. Padmanabha Pillai for the appellant contends that section 5 of the Limitation Act applies to the case and the Court is entitled to consider the application on the merits. Mr. Pocker for the respondents contends that the Limitation Act has not been extended to the Laccadives and therefore the Court has no power to act under section 5 of the Limitation Act. In order to determine this question it is necessary to see whether the law of limitation has been extended to the Laccadive Islands.

The history of the Laccadive Islands is an interesting one. We are at present concerned with the four islands which are known as the southern group of islands and the Island of Minicoy which are administered by the Collector of Malabar. It is unnecessary to consider the history previous to the year 1792. A few passages from "A short account of the Laccadive Islands and Minicoy" by R. H. Ellis, I.C.S., would be quite sufficient for the purpose of this case :

"In 1791 the southern islands passed, by the conquest of Cannanore, to the East India Company along with other possessions of the Bibi; and were further ceded, with Tippu's entire possession in Malabar, by the peace of Seringapatam, in 1792." "It was determined however 'as a matter of policy and conciliatory of Mappillas in general' to permit her to retain her possessions, provided she paid a tribute to the Honourable Company."

The East India Company was in possession of the islands from 1792. Owing to the non-payment of the

AHMED KOYA ² tribute payable by the Bibi the islands were attached in
 AHSAMMA. 1875. This attachment remained in force until 1908.
 DEVADOSSE, J. In 1909 the Bibi ceded the islands to the British and
 she was given a pension. By the cession of the islands
 to the British Government in 1909 the islands became
 British possession and part of India. The following
 proclamation was issued in 1912 :

“ In exercise of the power conferred by the Indian Councils Act, 1861 (24 and 25 Vict., C. 67) section 47, the Governor-General in Council is pleased to declare that for the purpose of the said Act, the Laccadive Islands and Minicoy, which by the Proclamation No. 292-I.A., dated the 5th February 1909, have been declared to be subject to the Government of Madras, shall be included within the limits of the Madras Presidency.”

By virtue of this proclamation the southern group of the Laccadive Islands and Minicoy became part of the Madras Presidency, and the High Court of Madras was invested with jurisdiction over the southern group by a notification, dated the 1st February 1912 :

“ In exercise of the power conferred by the Indian High Courts Act, 1865 (28 and 29 Vict., Cap. 15), section 3, the Governor-General in Council is pleased to authorize and empower the High Court of Judicature at Madras to exercise within the Laccadive Islands and Minicoy, which are not included within the limits of the places for which the said High Court was established, all such jurisdiction and powers as the said High Court may, from time to time, exercise in the scheduled districts of the Presidency of Madras.”

Though the southern group of the Laccadive Islands and Minicoy have become parts of the Madras Presidency and though the High Court has jurisdiction over them, yet, all the Acts of the Governor-General of India have not been extended to them. Regulation 1 of 1912, section 3, makes the Madras State Prisoners Regulation of 1819, the State Prisoners Act of 1858 and the

Scheduled Districts Act of 1874, the only enactments in AHMED KOYA
force in the islands. Section 21 is as follows:

v.
AISHAMA.

“All questions relating to any rights claimed or set up in DEVADOSS, J.
the Civil Courts of the islands shall be determined in accordance
with any custom not manifestly unjust or immoral governing the
parties or property concerned, and, in the absence of any such
custom, according to justice, equity and good conscience.”

Under section 26 an appeal lies to the High
Court from any decision of the Collector in the exercise
of his original jurisdiction. Under section 17 the
time for appeal is six months from the date of the
judgment or order appealed against provided that the
months of June, July, August and September shall be
excluded in reckoning such period. It is clear from the
Regulation that the ordinary law of British India is not
applicable to the islands, but only such enactments or
such portions of such enactments as are specifically
mentioned in the Regulation and the Scheduled Districts
Act of 1874 are applicable to the islands. Under section
3 of the Scheduled Districts Act of 1874:

“The Local Government, with the previous sanction of
the Governor-General in Council may, from time to time, by
notification in the *Gazette of India*, and also in the local gazette
declare what enactments are actually in force in any of the
scheduled districts, or in any part of any such districts, and (b)
declare of any enactment that it is not actually in force in any of
the said districts or in any part of any such district.”

Under the notification issued by the Government the
Limitation Act has not been extended to the islands.

Mr. Padmanabha Pillai relies upon the decision in
Queen Empress v. Cheria Koya(1) as supporting his
contention. In that case it was held that the Crimi-
nal Procedure Code was applicable to the southern group
of the Laccadive Islands. The learned Judges were of
opinion that inasmuch as the Scheduled Districts Act
did not expressly exclude the operation of the Criminal

(1) (1890) I.L.R., 13 Mad., 353.

AHMED KOYA
 v.
 AISAMMA.
 DEVADOSS, J.

Procedure Code and as the Laws Local Extent Act makes all the enactments of the Indian Legislature applicable throughout British India, it should be taken that the Criminal Procedure Code was in force in the islands. It was not brought to the notice of the learned Judges that the Laccadive Islands were not part of British India. The sovereignty of the islands before 1909 was vested in the Bibi of Cannanore. Though the islands were in the possession of the British Government they did not become part of British India, for they were taken possession of for arrears of tribute according to the agreement between the Government and the Bibi. In the light of the facts placed before the learned Judges they held that the Criminal Procedure Code was in force in these islands. The matter has now been placed beyond doubt by the cession of the islands to the British Government in 1909 and by the proclamation of the Secretary of State above referred to.

It is urged that if the law of limitation is not extended to the Laccadive Islands there will be no limitation for suits and there will be no security of title and no title can be created by prescription and a suit may be brought at any time against any person. We are not concerned with the policy of the Government with regard to the administration of these islands. It may be that practical difficulties will arise in deciding questions of title and claims for money. We are only concerned in this petition to see whether the petitioner can claim the benefit of section 5 of the Limitation Act. As the Limitation Act has not been extended to the Laccadive Islands we have no power to consider the application on the merits. We, therefore, dismiss the Civil Miscellaneous Petition with costs.

As the matter is of importance we gave notice to the Government Pleader to help us in deciding this question.

We are very much indebted to him for the able way in which he summarised the history of the islands and brought to our notice the various proclamations and regulations with reference to the islands.

AHMED KOYA

v.
AISAMMA.

DEVADOSS J.

WALLER, J.—This is an application under section 5 of the Limitation Act for excusing delay in the presentation of an appeal. The appeal comes from one of the group of Laccadive Islands which is administered by the Collector of Malabar. It raises a very interesting question as to the applicability of the Limitation Act to that area. Mr. Padmanabha Pillai's argument was based entirely on an old ruling of this Court (*Queen-Empress v. Cheria Koya*(1)). As the position did not seem to us to be entirely clear, we asked Mr. C. V. Anantha-krishna Ayyar, the Government Pleader, to assist us. He has now placed before us the history of these islands in relation to the Government of India and we are very much indebted to him for his assistance. In the ruling above referred to, the High Court found that the Laccadive Islands had become an integral part of Her Majesty's territories so far back as the year 1792 and, relying on Acts XIV and XV of 1874, decided that the Criminal Procedure Code was in force in them. It is clear that the Judges were misinformed as to the true position, which was that the Secretary of State had repeatedly refused to assume the sovereignty of the islands and that Impichi Bibi did not surrender it till the year 1909. The agreement with her was ratified by the Governor-General in that year and the islands became part of His Majesty's Indian dominions with effect from 1st July 1909. They were incorporated in the Madras Presidency on 1st February 1912 and on the same date were placed under the jurisdiction of the Madras High Court.

WALLER, J.

AHMED KOYA v. AISAMMA. Regulation 1 of 1912 (The Laccadive Islands and Minicoy Regulation). Section 3 provides that :
 WALLER, J.

“ This Regulation, the Madras State Prisoners Regulation, 1819, the State Prisoners Act, 1858, and the Scheduled Districts Act, 1874, shall be the only enactments in force in the islands.”

The Laws Local Extent Act (XV of 1874) is not referred to and therefore is not in force. Nor has any notification been issued under Act XIV of 1874 applying the Limitation Act to the islands. This being so, the whole basis of Mr. Padmanabha Pillai's argument disappears. It follows that the Limitation Act does not apply to Laccadive Islands and that the law of limitation applicable to them must be looked for in Regulation 1 of 1912. Section 17 read with section 27 provides that appeals shall ordinarily be filed within six months, from which the period of the south-west monsoon (June to September inclusive) is to be excluded. That period we have no power to extend. The application fails and is dismissed with costs.

K.R.

APPELLATE CRIMINAL.

Before Mr. Justice Devadoss and Mr. Justice Waller.

THE PUBLIC PROSECUTOR (APPELLANT)

1925,
 December 17.

v.

THANIYA (ACCUSED).*

*Madras Planters' Labour Act (I of 1903) ss. 4, 7, 30 and 42—
 Breach of rules framed under Act—Contract of labour not
 containing descriptive marks of labourer, invalidity of—
 Illegality of conviction for desertion.*

The conviction of a labourer under section 30 of the Madras Planters' Labour Act (I of 1903) for desertion is illegal if the

* Criminal Appeals Nos. 339 and 340 of 1925.