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use of the license for a fixed term, receiving rent, is contrary to the policy of the law, and comes within the rule that a contract which is illegal, or is contrary to public policy, cannot be enforced."

We are of opinion that the general effect of those cases and especially the last mentioned case is that no licensee under the excise laws can transfer the license or sub-lease it to any person, and that it would be defeating the policy of the law if such contracts were to be allowed. This view is based not only upon the general principle that anything which defeats statutory provisions or is against the public morals should not be allowed, but upon the especial matters of the excise law that the capacity of the licensee is a matter to be taken into account, and that the consideration of the public morals also forms part of the granting of such license with reference to the character of such licensee. We hold therefore that the lower appellate Court was right in holding that the suit, taking into account the sum of Rs. 1,500 as rent due under the license which the plaintiff had taken from the revenue authorities and sub-leased to the defendants, was not maintainable. That Court has also found that once the item of Rs. 1,500 is kept out of account nothing of the account proffered by the plaintiff himself remains due to him. This being so, we dismiss the appeal with costs.

Appeal dismissed.

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CRIMINAL REVISION.

Before Mr. Justice Straight.

EMPRESS v. NIADAR.

Act XLV of 1860 (Penal Code), s. 498—Detaining with criminal intent a married woman.

The words "such woman" in s. 498 of the Indian Penal Code do not mean such a woman as has been so enticed as mentioned in that section but mean such woman whom the accused knows or has reason to believe to be the wife of any other man; the detention of such a woman with the particular intent defined in the section is one of the offences made punishable under that section.

THIS was an application for revision on behalf of Niadar, convicted under s. 498 of the Indian Penal Code.

The evidence in the case proved that the wife of the complainant ran away from him and was eventually found residing with the petitioner. Complainant claimed back his wife, but petitioner persisted

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in detaining her, knowing that she was then the complainant's wife. On these facts the petitioner was convicted by a Magistrate under s. 498 of the Indian Penal Code and sentenced to rigorous imprisonment for four months. On appeal to the learned Sessions Judge, that officer observing that "it is fairly proved that the accused when complainant claimed his wife detained her, having then reason to believe she was complainant's wife," affirmed the conviction and sentence.

The second ground on which revision was sought was as follows:—"Because when enticing away a married woman is not established, no conviction can be had as against the prisoner under s. 498 of the Indian Penal Code."

Mr. *Niblett*, for the petitioner.

The *Government Pleader (Ram Prasad)*, for the Crown.

STRAIGHT, J.—If I understand the judgment aright it has been found as a fact by the learned Judge that the petitioner, knowing or having reason to believe that the woman was the wife of the complainant, detained her in his home and kept her from her husband with the intent that she should continue to co-habit with him. It is admitted by the learned pleader for the petitioner, that his first plea as to the proof of the marriage cannot be sustained, but he contends that on the facts found by the Judge, and in the absence of proof of enticement, there can be no conviction under s. 498 of the Penal Code. In support of the view he refers to a ruling of Pearson and Oldfield, JJ. (1), which no doubt favours his contention, though whether the decision of those learned Judges is to be regarded as confined to the facts of that particular case is not altogether clear. At any rate, the point now raised does not seem to have been discussed. In my opinion, the words "such woman" in s. 498 do not mean "such woman so enticed as aforesaid," but do mean "such woman whom he knows or has reason to believe to be the wife of any other man," and that the detention of such a woman with the intent therein provided is one of the offences comprehended in the section. The petitioner therefore was, in my opinion, rightly convicted. But I think upon all the facts disclosed here a sentence of one month's simple imprisonment would have been ample, and I direct that the record be so amended.

(1) I. L. R., 4 All., p. 251.