

1897

SHAM
KRISHNA
v.
RAM DAS.

under its original number on its file of pending cases and to proceed with it according to law. Costs here and hitherto will abide the event.

Appeal decreed and cause remanded.

1897
December 2.

REVISIONAL CRIMINAL.

Before Sir John Edge, Kt., Chief Justice and Mr. Justice Burlitt.

QUEEN-EMPRESS v. DAL SINGH.*

Act No. XLV of 1860 (Indian Penal Code) section 498—Enticing away a married woman—Evidence of marriage—Mere statement of the complainant and the woman insufficient.

Where a charge is made under section 498 of the Indian Penal Code of enticing away a married woman, the Court should require some better evidence of the marriage than the mere statement of the complainant and the woman.

THIS was a case referred by the Sessions Judge of Mainpuri to the High Court on an application for revision made by Dal Singh. Dal Singh had been convicted by a Deputy Magistrate of the offence punishable under section 498 of the Indian Penal Code, and sentenced to a fine of Rs. 25, or in default to four months' rigorous imprisonment. In his application in revision he contended that there was no sufficient evidence to prove the marriage between the woman he had been convicted of abducting and her alleged husband the complainant. That evidence consisted of the statement of the woman, who was called as a witness before the Deputy Magistrate, and the statement of the complainant. In support of the application the case of *Queen-Empress v. Kallu* (1) was relied on.

The following order was passed by the High Court:—

EDGE, C. J. and BURKITT, J.—In any view of this case the sentence was entirely inadequate. In one view the case was merely one under section 498 of the Indian Penal Code; but the woman, if she was the complainant's wife, was, if the evidence is true, enticed away by the accused, who had

* Criminal Revision No 457 of 1897.

(1) I. L. R., 5 All., 233.

connection with her and kept her for some time. If her story is true, the accused man must in addition have committed the offence punishable under section 376 of the Indian Penal Code. The case has not been properly tried. In cases of this kind where a false charge may easily be made of enticing away a woman, said to be a married woman, but possibly only a mistress, the Court should require some better evidence of the marriage than the mere statement of the complainant and the woman. We set aside the conviction and sentence, and we direct that a further inquiry be held before some competent magistrate of the district, other than Syed Mazhar Ali, who can either deal with the case himself, or, if he should be of opinion that a case under section 376 is made out, will act accordingly.

1897

QUEEN-
EMPRESS
D. DAL SINGH.

APPELLATE CIVIL.

1897
December 9.

Before Mr. Justice Banerji and Mr. Justice Aikman.

PANCHAITI AKHARA KALAN UDASI SRI SAT GURU NANAK NIKWAN PANCH PARMESHWAR, IN KYDGANJ, CITY ALLAHABAD, THROUGH MAHANT MOTI RAM, MOKAMI HARI DAS, MAHANT NABAIN DAS, MAHANT SOTI PRAKAS, MAHANT GOKUL DAS, MAHANT'S GANGA RAM AND ISWAR DAS, LOCAL AGENTS AND MANAGERS OF THE SAID AKHARA (PLAINTIFFS) v. GAURI KUAR AND ANOTHER (DEFENDANTS).*

Civil Procedure Code, section 435—Company—Corporation—Unincorporated society—Form of suit.

The corporation contemplated by the Code of Civil Procedure is a corporation as known in English Law, that is, a corporation created with the express consent of the Sovereign, or of such antiquity that the consent of the Sovereign may be presumed. *

In a suit by an unregistered and unincorporated society the names of the members of the company must be disclosed. If this is not done, and if the society is neither a corporation nor a company authorized to sue or be sued in the name of an officer or of a trustee, so as to make the provisions of the Code of Civil Procedure, section 435, applicable, the plaint is a bad plaint. *Koylash*

* Second Appeal No. 236 of 1895 from a decree of W. Blennerhassett, Esq., District Judge of Allahabad, dated the 24th January 1895, confirming a decree of H. David, Esq., Munsif of Allahabad, dated the 8th November 1894.