

## MISCELLANEOUS CIVIL.

1908  
December 4.

*Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Banerji.*

CHOGA LAL (PLAINTIFF) v. PIYARI AND ANOTHER (DEFENDANTS)\*

*Act No. IX of 1872 (Indian Contract Act), section 23—Contract—Agreement immoral or opposed to public policy—Lease of house to a prostitute.*

*Held* that knowingly letting a house to a prostitute with the object of her carrying on therein prostitution is immoral and contrary to public policy; and a landlord who knowingly so lets quarters to a prostitute to carry on prostitution cannot recover the rent in a court of law.

A SUIT for arrears of rent of two huts (Nos. 307 and 309, Sunder Bazar, Jhansi), rented jointly from the plaintiff by two prostitutes, Piyari and Kallo, was brought in the Court of the Cantonment Magistrate of Jhansi exercising powers of a Court of Small Causes. The defendants pleaded that recovery of rent was barred, inasmuch as to the plaintiff's knowledge the huts were rented by the defendants for immoral purposes, and reference was made to the case of *Goureenath Mookerjee v. Mudhomonee Peshakur* (1). The Court referred the case to the High Court under the provisions of section 617 of the Code of Civil Procedure.

Babu *Harendra Krishna Mukerji*, for the plaintiff.

*Lala Girdhari Lal Agarwala*, for the defendants.

STANLEY C. J., and BANERJI, J.—This is a reference made by the learned Cantonment Magistrate of Jhansi exercising the powers of a Judge of a Court of Small Causes, under section 617 of the Code of Civil Procedure. The question which he submits for the opinion of the Court is whether the English law is operative in a suit to recover rent due for a residence or quarters rented to a prostitute, with knowledge that such residence or quarters would be used by her to carry on her immoral trade and profession. It seems to us unnecessary to determine whether the English law is applicable in this country, because we find that there is an express provision of the Indian Contract Act under which a contract for such a purpose would be illegal. Section 23 of that Act provides that the consideration or object of an agreement is lawful, unless,

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\* Miscellaneous No. 271 of 1908.

amongst other things, the Court regards it as immoral or opposed to public policy. If the object of an agreement is immoral or opposed to public policy, clearly the agreement cannot be enforced. It cannot be denied that knowingly letting a house to a prostitute with the object of her carrying on therein prostitution is immoral and contrary to public policy, and a landlord who knowingly so lets quarters to a prostitute to carry on prostitution cannot recover the rent in a Court of law. This is the answer which we give to the reference.

1908

CHOFFA LAG  
D.  
PIYARI.

## REVISIONAL CIVIL.

1908

December 5.

*Before Mr. Justice Aikman, and Mr. Justice Karamat Husain.*

IN THE MATTER OF THE PETITION OF KEDAR NATH.\*

*Act No. XVIII of 1879 (Legal Practitioners Act), section 36—Order declaring certain persons to be touts—Revision—Jurisdiction—Practice—Statute 24 and 25 Vict., Cap. CIV, section 15—Rules of High Court of the 18th January, 1898, rules 1 (xiii) and 4.*

The District Judge of Meerut held an inquiry under section 36 of the Legal Practitioners Act, 1879, as the result of which he ordered certain persons to be proclaimed to be touts and excluded from the precincts of the courts in the judicial division. The parties affected applied to the High Court against the Judge's order under section 15 of Statute 24 and 25 Vict., Cap. CIV. On this application being laid before a division Bench for disposal it was held :—

*Per KARAMAT HUSAIN, J.*, that the disciplinary powers of the High Court under section 15 of the Statute being exercisable only by the full Court, a bench of two Judges had no jurisdiction to adjudicate upon the application neither had a single Judge jurisdiction to admit it.

*Per AIKMAN, J.*, that the Court had an inherent power to delegate to one or more of its members the power to deal with applications such as the present, and rule 1 (xiii) of the Rules of Court of the 18th January 1898 effected such a delegation. But the powers of the Court under section 15 of the Statute were limited, and in this instance no case for their exercise had been shown. *Fej Ram v. Har Sukh* (1) and *Muhammad Suleman Khan v. Fatima* (2) referred to.

IN this case the District Judge of Meerut had taken proceedings under section 36 of the Legal Practitioners' Act against certain persons alleged to be touts, and by an order dated the 15th

\* Civil Revision No. 50 of 1908, from an order of L. Stuart, Esq., District Judge, Meerut, dated the 15th of June 1908.