

Rs. 5, in that he was in possession of certain empty cartridge cases, which had already been used for firing. The Officiating Sessions Judge of Mainpuri has referred the case to this Court, because in his opinion such empty cartridge cases do not fall within the definition of ammunition in section 4 of the Arms Act. The only ground which he gives for his opinion is a Punjab Ruling to be found at page 134 of Hawkins' Arms Act (2nd edition). I cannot possibly agree with the opinion expressed by the Officiating Sessions Judge of Mainpuri. It requires but the insertion of a percussion cap to make a cartridge case fit for future use. Gunwads are specifically included within the definition of ammunition, and to hold that cartridge cases were not part of ammunition would in my opinion lead to an absurdity. This point was considered by a Bench of the Bombay High Court in *King-Emperor v. Ibrahim Alibhoj* (1). It was there held that an empty cartridge case fell within the definition of ammunition. I fully agree with the opinion expressed therein. The case is not one which calls for any interference by this Court as the fine imposed is a small one. Let the record be returned.

1909

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 EMPEROR  
 v.  
 BALDEO  
 SINGH.

*Record returned.*

*Before Mr. Justice Sir George Knox and Mr. Justice Karamat Husain.*

EMPEROR v. RAM PIYAR.\*

1909  
 December 7.

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*Criminal Procedure Code, sections 345 (2) and 439—Revision—Power of High Court in revision to give leave to compound.*

*Held* that the High Court can in the exercise of its powers of revision under section 439 of the Code of Criminal Procedure give leave for the composition of an offence under section 325 of the Indian Penal Code.

THIS was a reference made by the Additional Sessions Judge of Aligarh recommending that a compromise should be allowed in a case in which one Musammat Ram Piyari had been convicted under section 325 of the Indian Penal Code and sentenced to one month's simple imprisonment.

The reference coming in the first instance before Richards, J., was referred to a Bench of two Judges under the following order:—

"This is a reference from the Additional Sessions Judge of Aligarh suggesting that a compromise might be accepted in a certain criminal case. I may

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\* Criminal Reference No. 673 of 1909.

(1) (1905) 7 Bom., L. R., 474.

1909

EMPEROR  
v.  
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mention at the outset that the terms of the reference are by no means so clear as they ought to be. It appears that Musammat Ram Piyari was convicted under section 325 of the Indian Penal Code and sentenced to one month's simple imprisonment. The matter came before the Additional Sessions Judge, possibly on an application for revision. The learned Additional Sessions Judge does not make this clear, but the parties were apparently willing to compromise. Section 345, sub-section (2) of the Code of Criminal Procedure, provides that the offences of causing hurt and grievous hurt under the sections therein mentioned may, with the permission of the Court before which the prosecution is pending, be compounded by the person on whom the hurt was inflicted. This sub-section cannot apply, because there was no suggestion of a composition before the court which tried Musammat Ram Piyari. Sub-section (5) provides that when an accused is being committed for trial, or when there has been a conviction and an appeal is pending, no composition for the offence should be allowed without leave of the court to which he is committed, or, as the case may be, before which the appeal is to be heard. This sub-section cannot apply, because the conviction had taken place and there was no appeal pending, nor could there have been any appeal from the sentence. It seems to be very doubtful whether the High Court in exercise of its powers of revision has any jurisdiction to allow a composition. I direct that the case be laid before a Bench of two Judges for determination of the question."

Mr. A. E. Ryves (Government Advocate), for the Crown.

The applicant was not represented.

KNOX and KARAMAT HUSAIN, J.J.—After hearing the learned Government Advocate, we have come to the conclusion that the powers conferred upon the Court in revision are wide enough to allow us to give leave, if we see fit, for the composition of an offence under section 325, Indian Penal Code. Section 423 of the Code is expressly mentioned in section 439, and all or any of the powers conferred on a court of appeal by section 423 are powers which this Court can exercise in revision. Section 423, clause (d), empowers an appellate court to make any amendment or any consequential or incidental order that may be just or proper. This Court in revision can therefore do the same. The leave that we give in a case of this kind would be an incidental order, and we think this case a proper one in which to give such leave. A very similar question was involved in the case of *Abadi Begum v. Ali Husen* (1). When this last named case was decided, this Court sitting as a Court in Revision considered itself empowered to pass an order under section 517 of the Criminal Procedure Code, although at that time clause (d) of

section 423 did not exist as a portion of the Code of Criminal Procedure. In any case we are satisfied that we have the power. We grant the leave. The petition of composition when accepted by the court below will have the effect of an acquittal of the accused.

1909

EMPEROR  
v.  
RAM FIZARI.

*Application allowed.*

## APPELLATE CIVIL.

1909

December 18.

*Before Mr. Justice Sir George Knox and Mr. Justice Karamat Husain.*

DAL SINGH (PLAINTIFF) v. MUSAMMAT DINI (DEFENDANT).\*

*Succession—Hindu Law—Unchastity of widow no bar to her right of succession to her son.*

There is no authority for holding that a Hindu lady who after her husband's death has waited and then gone to live with another man is thereby excluded from inheritance to the estate left by her son.

THE facts of this case were as follows:—

On the death of Bhuri Singh, a separated Hindu, his estate was claimed by his mother, Musammat Dini. Her claim was resisted by Dal Singh, uncle of Bhuri Singh, on the ground that Musammat Dini, having become unchaste, was debarred from inheriting the property of her son. The court of first instance found in favour of Musammat Dini, on the ground that her unchastity had not been established. The lower appellate court came to the conclusion that she had become unchaste, but that it was after the death of her husband; and, holding that the disqualification on the ground of unchastity applied only to the case of a widow claiming the estate of her husband and not to a mother claiming the estate of her son, confirmed the decree in her favour. The plaintiff appealed.

Munshi Govind Prasad (with him Mr. M. L. Agarwala), for the appellant:—

An unchaste woman is disqualified, under the Hindu Law, from inheriting. The ruling in *Musammat Ganga Jati v. Ghasita* (1) relied on by the lower court does not apply to the

\* Second Appeal No. 601 of 1908 from a decree of Mubarak Husain, Subordinate Judge of Shahjahanpur, dated the 25th of March, 1908, confirming a decree of Kherod Gopal Banerji, Munsif of Tilhar, dated the 12th of September, 1907.