

1882  
March 17.

## MATRIMONIAL JURISDICTION.

*Before Mr. Justice Straight.*

AUGUSTIN (PETITIONER) v. AUGUSTIN (RESPONDENT).

*Husband and wife—Judicial separation—Charge against wife of adultery—Cruelty.*

A false charge by a husband against his wife of adultery, although such charge is made wilfully, maliciously, and without reasonable or probable cause, is not an act amounting at law to cruelty, so as to entitle the wife to a judicial separation.

THIS was a petition by Constance Juliet Augustin for judicial separation from her husband, Alexander Clement Augustin, on the ground of cruelty. The petitioner charged the respondent with having treated her with cruelty on several occasions, but eventually agreed to limit the charges of cruelty to the one contained in the eight paragraph of her petition, which was as follows:—"That on the 29th October, 1881, shortly after your petitioner had left Simla, the said A. C. Augustin brought a criminal charge against one of your petitioner's relations of having committed adultery with your petitioner, such charge being absolutely false and without foundation."

The issues framed were:—"Did the respondent charge the petitioner, on the 29th October, 1881, with adultery with one David Rutledge? Was such charge wilfully, maliciously, and without reasonable or probable cause made by the respondent against the petitioner?"

It was proved that the respondent had instituted criminal proceedings against the David Rutledge mentioned in the first of the issues above set forth, charging him with having committed adultery with his wife, the petitioner, and that such charge had been dismissed as groundless.

Mr. Hill, for the respondent, objected to the petition being entertained on the ground that, even if the respondent had falsely, maliciously, and without reasonable or probable cause charged the petitioner with adultery with Mr. Rutledge, such conduct did not amount to cruelty which would justify the Court in granting a decree for judicial separation.

Messrs Conlan and Saunders, for the petitioner,

STRAIGHT, J.—I am very clearly of opinion that this petition cannot be sustained. The main and indeed only point I have to consider is, whether, assuming that the charge of adultery alleged in regard to the petitioner and involved in the prosecution of Mr. Rutledge at Simla was preferred without reasonable and probable cause, and wilfully and maliciously, such act on the part of the respondent does or does not amount to legal cruelty, so as to entitle the petitioner to a judicial separation? To my mind, if all this were established, which for the purpose of argument is conceded by the counsel for the respondent, no case would be made out justifying the interference of this Court. Under these circumstances I have no alternative but to dismiss the petition, but no order will be made as to costs.

1882

---

 AUGUSTIN  
 v.  
 AUGUSTIN.

---

## CRIMINAL JURISDICTION.

---

Before Mr. Justice Oldfield.

IN THE MATTER OF THE PETITION OF GANGA DAYAL AND OTHERS.

Pleader—Mukhtar—*Illegal practising*—Act XVIII of 1879 (*Legal Practitioners' Act*), ss. 10, 32.

---

 1882  
 March 25.
 

---

A pleader or mukhtar practising in contravention of the provisions of s. 10 of Act XVIII of 1879 is punishable under s. 32 of that Act only by the Court before which he has so practised.

Two pleaders and a mukhtar, who had been duly authorized to practise in the Courts of the Cawnpore District, appeared in a case in the Court of the Deputy Magistrate at Kanauj, in the Fatehgarh District. For so doing they were convicted by the Magistrate of the Fatehgarh District, under s. 32 of Act XVIII of 1879, for acting in contravention of the provisions of s. 10. They applied to the High Court to revise the order of the Magistrate on the ground, amongst others, that he was not competent to proceed against them under s. 32 of Act XVIII of 1879, as they had not practised in his Court.

Mr. Ross, for the applicants.

The *Junior Government Pleader* (Babu Dwarka Nath Banarji), for the Crown.

OLDFIELD, J.—The objection to the conviction that the Magistrate had no jurisdiction is, in my opinion, valid. The conviction