

to a conclusion upon it has been caused by the exceedingly inconvenient course adopted by the Sessions Judge in trying all the accused together. I have already more than once had occasion to point out that, in cases where several persons are charged with giving false evidence, each of them should be separately tried, and it is unfortunate that these rulings were not brought to the attention of the Judge. In the present instance the charges against Anant Ram of wilfully and corruptly using the altered receipts in evidence as true and genuine documents differed materially from those preferred against the other four accused of giving false evidence, and they should have been heard separately in a proceeding against Anant Ram alone. Having regard to all the circumstances of the case, it is impossible for me to say that the appellants were not prejudiced in their defence by the Judge's procedure, which obviously deprived them of the power to call each other as witnesses in their several cases to depose to the truth of the story they had told in the Revenue Court, and which it was alleged was false. Although very reluctant to have the matter re-opened, it does not appear to me that I have any other alternative. I accordingly quash the convictions and sentences of the five appellants, and I direct that they each be separately and severally re-tried before the Judge of Allahabad, Anant Ram for three offences in respect of the three receipts under s. 196 of the Penal Code, and Sukhdeo, Dharam Das, Bidhata and Pancham for the various false statements alleged to have been made by them, under s. 193. As the case is one of some peculiarity and difficulty it is a matter of satisfaction to me to know that it will be re-investigated by the present experienced and careful Judge of Allahabad (1).

Ordered accordingly.

MATRIMONIAL JURISDICTION.

Before Mr. Justice Straight.

DE BRETTON v. DE BRETTON.

Alimony pendente lite—Decree nisi for dissolution of marriage—Application to make decree absolute—Arrears of alimony—Act IV of 1869 (Indian Divorce Act), ss. 16, 36.

A husband, who had obtained a decree nisi for the dissolution of his marriage with his wife on the ground of her adultery, applied to have such decree made

(1) At the trials subsequently held all the accused were acquitted.

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absolute. At the time this application was made arrears of alimony *pendente lite* were due to the wife. The Court (STRAIGHT, J.) refused to make such decree absolute until such arrears were paid.

IN a suit under Act IV. of 1869, instituted in the High Court by one Charles James De Bretton, for the dissolution of his marriage with his wife, Florence Emma De Bretton, on the ground of her adultery, Straight, J., before whom the suit was tried, made an order on the petitioner for payment to the respondent of Rs. 70 per mensem by way of alimony pending the suit. On the 17th June, 1881, the Court gave the petitioner a decree *nisi* for dissolution of marriage. On the 9th February, 1882, an application was made on behalf of the petitioner to have such decree made absolute. The respondent was called on to show cause why this application should not be granted.

Mr. *Spankie*, for the respondent, contended that the decree *nisi* should not be made absolute until the arrears of alimony due by the petitioner to the respondent were paid. The petitioner, in omitting to pay the alimony in accordance with the order of the Court, is in contempt. *Latham v. Latham* (1) is in point.

Mr. *Howard*, for the petitioner.

STRAIGHT, J.—Upon hearing Mr. *Spankie* for the respondent and Mr. *Howard* for the petitioner, I decline to make the decree *nisi* granted by me in this case on the 17th June, 1881, absolute for the dissolution of the marriage of the parties, until such time as the sum of Rs. 295, balance of alimony due to the respondent down to the 1st February, 1882, under the order of the Court, has been paid.

FULL BENCH.

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Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Straight, Mr. Justice Oldfield, and Mr. Justice Tyrrell.

SHAM LAL (DEFENDANT) v. BANNA (PLAINTIFF).*

Hindu Law—Hindu widow—Maintenance—Charge on her husband's estate—Bond fide purchaser for value without notice.

The maintenance of a Hindu widow is not, until it is fixed and charged on her deceased husband's estate by a decree or by agreement, a charge on such estate

*Second Appeal, No 501 of 1880, from a decree of Maulvi Zain-ul-abidin, Subordinate Judge of Shahjahanpur, dated the 29th April, 1880, reversing a decree of Maulvi Amirullah, Munsif of Shahjahanpur, dated the 5th February, 1880.

(1) 30 L. J., P. and M. 163.