

APPELLATE CIVIL.

Before Sir Charles Sargent, Knight, Chief Justice, and Mr. Justice Kembell.

1884
September 18,

APPANA APPLICANT, v. TANGAMMA, WIFE OF MANJUSHETTI,
OPPONENT.*

Civil Procedure Code (Act No. XIV of 1882), Sec. 266—Attachment—Wearing
apparel—Mangalsutra (a neck ornament).

The *mangalsutra*, a neck ornament which is worn by a Hindu married woman during the life-time of her husband and never removed, is a part of her necessary wearing apparel, and is exempted from execution under section 266 of the Code of Civil Procedure (Act No. XIV of 1882).

THIS was a reference, under section 617 of the Civil Procedure Code, from Ráv Sáheb Vishvanáth V. Wág, Subordinate Judge Sirsi, who stated the case as follows:—

“In original suit No. 73 of 1884 a decree was passed against one Tangamma kom Udápi Manjushetti. The amount of the decree is Rs. 40-4-10. The decree directs the recovery only from her *stridhan*.

“The decree-holder has sued out execution, and requests the Court to attach two trinkets now on her person, stating that she has concealed her other moveables. They are *mokti* (nose ornament) and *mangalsutra* (neck ornament). The former is a small gold ornament. The latter generally consists of some threads on which glass beads are strung, with large perforated gold balls hanging in the middle.

“In the present case both are reported to be of very insignificant value, but with well-to-do men they may be rich wrought and of abundant value.

“*Mokti* is worn even by widows, but not the *mangalsutra*. A woman under coverture is not bound to use a *mokti*. She may remain without it. *Mangalsutra* is tied to the neck of a female on her wedding day, and remains there only during her coverture as a token thereof. It has to be removed at the moment of her husband's decease.

*Civil Reference, No. 29 of 1884.

"The term *mangalsutra* is derived from Sanskrit, and means a thread of good luck or auspiciousness (*mangal* = good luck, and *sutra* = thread). According to the universally and time-honoured usage obtaining amongst the people of some sections of the Hindu community (defendant belongs to one of these sections) the *mangalsutra* is held to be a sacred tie or trinket co-existent with the mark of vermilion found on the forehead of every woman whose husband is alive. It is only on the death of the husband that both are removed.

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"The execution-creditor asks for its removal, attachment and sale. This gives rise to the present main question, 'whether the *mangalsutra* can be removed from the person of the judgment-debtor, and sold?' To me the solution of this question is attended with some difficulty, because the usage comes in conflict with the law. Section 266 of the Civil Procedure Code does not protect this ornament from attachment and sale. The removal thereof from the neck of a *Sadhava* (feminine convert) is calculated to give offence to the whole community to which the woman belongs. It appears to me to be necessary to uphold the customary law.

"I am humbly of opinion, therefore, that the *sutra* in question cannot be removed from the person of the judgment-debtor."

There was no appearance in the High Court on behalf of any party.

SARGENT, C. J.—We think that, having regard to the universal practice amongst Hindus for a married woman to wear a *mangalsutra* during the life-time of her husband without ever removing it, it must be regarded as a part of her necessary wearing apparel, and, therefore, not liable to execution.

Order accordingly.