

every precept of Private Law and cannot be affected by any argument derived from that Law.

1870.
August 4.
C. R. A. No. 406
of 1869.

The fact of a transaction being in violation of Public Law may prevent the arising of rights which would otherwise have the sanction of Private Law; although *Harvey v. Bridges* (14, M. and W., 442) is an example of the contrary; but the fact that rights would, according to Private Law, spring from an act transgressing a precept of Penal Law can never prevent that act from being an offence.

With respect to the argument from religion, it is only necessary to observe that if the precepts of a particular religion enjoin acts which transgress the rules of Penal Law, these acts will clearly be offences. Where the Legislature intended that acts which would otherwise be offences should not be so because connected with religious observances they have expressed that intention.—(Penal Code, Sec. 292.)-

Feeling it impossible to draw any other inference than that the purpose of these transactions was the purpose expressed in the sections under which the prisoners were indicted, we affirm the conviction appealed against.

In this, the first case of the kind, we have reduced the sentences to 18 months' imprisonment on each prisoner, being unable to say that one is more guilty than the other.

Conviction affirmed.

Appellate Jurisdiction. (a)

Civil Miscellaneous Regular Appeal No. 94 of 1870.

SIVU and 5 others.....*Petitioners.*

CHENAMMA and another.....*Counter-Petitioners.*

The provisions in the Code of Civil Procedure for review of judgment are not applicable to Act XXVII of 1860. Where the Civil Court granted a certificate under the Act to the Petitioner, and subsequently made an order granting a certificate to the Counter-Petitioner, the High Court set aside the latter order.

A PPEAL against the orders of M. J. Walhouse, the Civil Judge of Mangalore, dated 23rd September 1869 and 5th February 1870, passed on Miscellaneous Petitions, No. 961 of 1869 and No. 1492 of 1869 respectively

1870.
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No. 94
of 1870.

(a) Present: Scotland, C. J. and Holloway, J.

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The Civil Judge made an order granting a certificate of succession to collect debts under Act XXVII of 1860 to the Petitioner on giving security. Petitions were subsequently presented by the Counter-Petitioner, and the Petitioner not having appeared upon the Petitions, notwithstanding repeated adjournments for that purpose, the Civil Judge made an order granting a certificate to the Counter-Petitioner.

The Petitioner appealed to the High Court.

Mayne, for the Petitioners.

Sanjiva Row, for the Counter-Petitioners.

The Court delivered the following

JUDGMENT :—We are of opinion that the provisions in the Code of Civil Procedure for review of judgment are not applicable to orders passed under Act XXVII of 1860. Section 38 of Act XXIII of 1861 provides that the procedure of Act VIII of 1859 shall be followed as far as it can be in all miscellaneous cases and proceedings, but we think that this provision must be held to apply only when a mode of procedure is left unprovided for. Act XXVII of 1860, Section 6, provides a special procedure for getting rid of a certificate once granted, and, besides giving the right of appeal against the order of the Original Court, gives also the right of applying by Petition to the High Court for the grant of a certificate in supersession of the certificate granted by the District Court. In a recent case reported at V. H. C. Reports, p. 283, this Court appears to have been of opinion that this procedure is the only procedure that can be adopted to get rid of a certificate, and we think that opinion is right. The order of the Civil Court dated 5th February 1870 must be reversed, and the order of 23rd September 1869 restored.

Appeal allowed.