Sectt. II—48—21,640—19-1-17.

Home (1917) Department.

(Mis:)

Ordy SERIES.

G.O. No. 1132

DATED 30 10 17

INDEXED

[Despatch Abstract.]

INDIAN CHRISTIAN MARRIAGE ACT, 1872.

Recording papers relating to a petition from the Rev. S. Paul of Polur Taluk, North Arcot district praying that an appeal may be ~~prefex~~ preferred against the order of acquittal of the Sessions Judge ~~xn~~ in a case where a Hindu Priest married a Hindu and a Christian girl according to Hindu rites.

A.K.K

1

REGISTRAR HOME DEPARTMENT GOVT. OF MADRAS
5-SEP-1917

Jud B
2291 2
Recd 6/9

From

The Rev. S. Paul,
Catholic Priest,
CHETPUT. Polur taluk, (N. A. Dt.)

To

The Secretary to the Government of Madras,
Judicial Department,
MADRAS.

UNDER SECRETARY TO GOVT. MADRA… HOME DEPARTMENT
-6-SEP-1917

Sir,

I respectfully beg to draw your attention to the case of Kolandai Velu Versus Rev. J. Dequidt, decided by the Full Bench of the Madras High Court on 17th April 1917, confirming a decision of the Sessions Judge of Chittoor who convicted a Valluva purohit under S. 68 of the Indian Christian Marriage Act 1872 for performing the marriage of a Hindu with a Christian girl, and the father of the girl under that Section read with S. 114 I. P. C.

put up

It is reported in page 113 of the Madras Law Journal Vol. XXXIII (August issue No. 4). While that case was in the High Court, there was proceeding exactly a similar case No. 84 of 1916 in the same Sessions Court between parties noted in the margin, having been committed for trial on the 10th of October 1916 and adjourned from date to date till the 16th April 1917, on which date the case was allowed to be withdrawn by the Sessions Court on an application of the Public Prosecutor, only one day before the decision was pronounced by the High Court in the previous case.

put up

1st Accused:	Namasivaya Pandaram.
2nd ,, :	Narayanan.
3rd ,, :	Taleari Ilangan.
4th ,, :	Muruga Goundan.
5th ,, :	Narayana Goundan.
Complainant:	Rev. S. Paul.

Having been at a loss to see the reason of the application, I applied to the Sessions Court for a copy of it, but I was informed that it could not be furnished, as will be seen from the reply appended.

Polur taluk (N. A. Dt)

The facts proved in respect of the case in question before the Committing Magistrate are these:-

On the 14th September 1916, 1st Accused Valluva by - caste(i.e., priest for Hindu Panchamas) performed at Randam - Polur Taluk - a marriage ceremony between 2nd Accused a Hindu lad of 19 - and the daughter of 3rd Accused - both father and daughter Christians.

These three Accused received notice from 1st witness that should they perform the marriage according to Hindu rites, the marriage would be illegal and Criminal action taken against them.

Ample proof was given in the Committing Magistrate's Court that 3rd Accused and his daughter - the bride, a girl of 13 - are Christians.

The case having been committed for trial to the Sessions Court, the Accused were kept in Sub-Jail for 3 days and then released on bail.

I may urge that the solemn Full Bench ruling of the High Court pronounced on 17th April 1917 applies exactly to the facts of the 2nd case, so summarily allowed to be withdrawn only the day before by the Sessions Court, and that there could have been no valid ground that I can - imagine for this action which has resulted in the acquittal of the accused. The Christian community feels much aggrieved by this abortive end of a real good case.

I beg therefore respectfully to pray that you will be pleased to move Government to appeal to the High Court against the acquittal.

I beg to remain,
Sir,
Your most obedient servant,

S. Paul Cath. Priest

Home (Misc) Dept.

Endt. No. 3180-1 / 18.9.17

Referred to the D. M., North Arcot for early remarks.

14.9.17

Pd.ck 14.9.17

17.9.17

18/9/17

To

The D. M., North Arcot

(with petition in original to be returned with reply)

[illegible] entered

C.F.—81.

Home (Miscellaneous) **DEPARTMENT.**

C. No. 3401

Received 18 OCT 1917 191 . Registered 16-10 1917.

Subject.

Appeal against acquittal.

Enclosures

No. One petition from Rev S. Paul of Chetpet

~~Spare copies~~ (3 Pages)

Roc No. 1843 magl of 1917.

Station Tirupattur, *Dated the* 15th October 1917.

From (Name) J. N. Roy Esquire, I. C. S.,

(Designation) Dt. Magistrate of North Arcot.

To The Secretary to the Government of Madras,
Home (Miscellaneous) Department,
Madras.

Sir,

p 4 ante

With reference to Government Endorsement No.3180-1, dated the 18th ultimo, I have the honour to state that the petitioner the Reverend S. Paul, is a Catholic Priest residing at Chetpet in Polur Taluk. It has been the custom amongst the Roman Catholics in those parts to marry their children according to Hindu rites whenever it suits their convenience. No serious objection was raised by the priests till last year when they thought it best to adopt a new policy. Three such cases were selected by the petitioner for prosecution, and they were all committed to the Court of Sessions for offences under Section 68 of the Christian Marriage Act. Two of them ended in conviction, but on appeal, the Judges were of opinion that this Act did not apply to Hindu marriages performed ostensibly by a Hindu priest, and that the decision reported in 17 Madras 391 was wrong. They referred the matter to a Full Bench, and the final decision was not given for several months. The accused in the case referred to by the petitioner were committed to the Court of Sessions in September last year. Some of the records in this case were in the High Court, and as the Full Bench had not given its decision on the legal point involved, the Sessions Judge was obliged to adjourn it. The case was adjourned several times for this reason, and in March this year, the Public Prosecutor suggested that in view of the long delay and the uncertainty of the law, it was not desirable to press the charge against the accused. I agreedwith him, and permitted him to withdraw the case. It came up for trial during the April Sessions, and the accused were formally acquitted, the Public Prosecutor withdrawing the charges. The Sessions Judge stated at the time that he fully approved of the procedure followed by the Public Prosecutor.

2. The petitioner points out that the decision of the Full Bench was announced on the 17th April, and that it was wrong to have withdrawn the case against the accused only the day before. Neither the Judge nor the Public Prosecutor knew that the judgment was going to be delivered the next day, and the procedure followed was the best under the circumstances of the case. The case was pending for no less than seven months, and everybody thought at the time that it would be months before the Full Bench gave its decision. The reverend gentleman goes to the length of saying that "the Christian community feels much aggrieved by this ---- abortive end of a real good case." I happened to try one of these cases at Chittoor last year, and must say that the petitioner has distorted the facts ludicrously. The Roman Catholics in Polur and Chetpet belong to the lowest section of the community, and are christians only in name. They follow Christian and Hindu rituals indiscriminately, and none of the catholic priests have, up till now, ever dared to interfere with them. The Reverend Paul has introduced a new policy, but his parishioners do not approve of his action, and to say that the christian community is chagrined at the acquittal of the accused is a ludicrous perversion of the truth. I doubt very much even if his brother priests approve of his action, and the fact that there has been only four or five prosecutions of this nature in this district during the last thirty years prove beyond doubt that the Roman Catholic Clergy has all along looked on all such transgressions with

leniency. As I have pointed out above, two of the cases have ended in conviction, and the High Court has finally given its decision in favour of the petitioner's contentions. The purpose with which he launched these prosecutions has already been achieved, and to rake up this case after one year will savour of vindictiveness. Men cannot be made religious by criminal prosecutions, and I do not think the reverend gentleman can legitimately expect the Government to help him in his work of proselytism. In my humble opinion, this is not a fit case for appeal to the High Court, and I would suggest that no further steps be taken in the matter. I need hardly mention that there is no knowing that the case would end in conviction even if it be re-tried.

3. The petition under reference is returned herewith.

I have the honour to be,
Sir,
Your most obedient servant,
M Roy
Dt. Magistrate.

M.R.

NOTES.

NOTES.

Home (Judl) Deptt

Appeal against acquittal.

C. 2291 B From ~~the~~ the Rev. S. Patel, Catholic Priest Chetput of —

no.

In the absence of the records connected with the case referred to by the petitioner it is not feasible to decide how far the circumstances are similar to the case decided on pp 113 — 121 of Vol XXXIII of the Madras Law Journal or how far the withdrawal of the case is justified. The withdrawal would have been made either at the instance or with the approval of the Dist. Magte. For orders whether in the circumstances any interference is called for. If necessary the petn. may be referred to the Dm. North Arcot for remarks.

Put up

Asst
6.9.17

C.R.
6-9-17

The petn. can best be put up to the deptt that deals with X'tian Marriage Act — Home (Misc) I think.

7.9.17

C. No. 3180 Home
18.9.17

Through ~~Home (Judl)~~

Recd
H.O. 10-9-17

Home (Misc) Dept.

From a perusal of the appeal, it will appear that the marriage complained against was between a Hindu Valluva aged 19 and a christian girl, the marriage having ~~being~~ been performed by a Hindu priest according to Hindu rites. Under section 4 of the Indian Christian Marriage Act, 1872, "every marriage between persons, "one or both of whom is or are a "Christian or Christians, shall be "solemnized in accordance with ~~such~~ ~~p~~ "the provisions of the next following "section; and any such marriage "solemnized otherwise than in accordance "with such provisions shall be void". Section 5 enumerates the class of persons by whom such marriages may be solemnized. Section 68 provides ~~for~~ for a penalty for solemnizing such a marriage contrary to the provisions of section 5 of the Act. The marriage in question appears to be void under section 5 of the Act, in as much as it was performed by a Hindu

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priest according to Hindu rites. The circumstances under which the case was allowed to be withdrawn by the Sessions Court are however, not known. It appears desirable therefore to obtain the remarks of the D. M., North Arcot on the petition, as suggested by the Judicial dept.

Draft endt. is submitted, ~~and~~ [illegible]

MSK
14.9.17

Pdek
14.9.17

CA
17.9.17

18/9/17

17/9

(Endt. No. 3180-1 d 18.9.17)

(Cl. No. 3401) From The D. M., North Arcot d 15.10.17

Please see the remarks of the D. M. on pages 5-7 C.F. Submitted that the case may now be returned to Judicial u.o. for disposal.

MSK
17.10.17

Pdek
19.10.17

Home (Misc) need not press for further pursuing the matter. The matter may drop.

CA
21.10.17

Sec

22/10/17

Draft order recording the papers is submitted.

P.M. 24/10/17
Thro' Judl. B.

MSK
23.10.17

Pdek
24.10.17

8/21 +

Sectt. II—10 (a)—7-2-16. Indian Christian Marriage Act, 1872

Home (Misc.) DEPARTMENT.

Recording papers relating to a petition from the Rev. S. Paul of Polur taluk, North Arcot district praying that an appeal [illegible] ~~against~~ ~~the performance by a Hindu priest of a marriage~~ [illegible] where [illegible] between a Hindu and a Christian girl according to Hindu rites. ~~[illegible]~~

READ AGAIN G.O. No. ...., dated .... 191 .

" " " " ...., " 191

Sessions Judge N. Arcot in a case where a Hindu priest performed ~~Christian~~ marriage of

READ ALSO:—

C. No. 3180, From the Rev. S. Paul, Chetpat, dated —10— 1917.

Endt. to the D.M., North Arcot. No 3180-1, 18-9-17

" " 3407, " " D.M., North Arcot, R.O.C. 843/1917, 15-10-1917.

" " ...., " " ...., " ...., " .... 191 .

ORDER. No. 1132, dated 30-10-1917.

Mis

Recorded

[illegible]

25.10.17

Pded
29 10 17

30/10/17

To

The D.M., North Arcot.
(Endt.)

Despatched
31/10/17

When given for copying
When copied 31/1/19
When examined
When signed 31/1 x
191 7.

READ AGAIN G.O. No. , DATED
191 .

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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