M.R. O. 1—89,090—16-10-99.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 164 Press ~~Mis.~~

35 - 36

Dated 2. 2 — ~~10~~ 1858

Not to be folded or roughly handled

164 W/O

No. 35. Read the following letter from the Advocate General; to the Chief Secretary to Government, Fort St. George, dated 25th January 1858.

SIR,

I have the honor to acknowledge the receipt, on Saturday the 23rd Instant, of the Extract Minutes Consultation No. 84, Judicial Department, under date the 18th Instant.

2. To suppose, with Lieutenant Colonel Colbeck, that the Legislature in passing Section 43 of Act 13 of 1856, intended that it should have an effect so very far exceeding what they have expressed, I must also suppose that they do not know how to express their own meaning, or how to give legal effect to their intentions. For none of these suppositions can I see the slightest ground in the present instance.

3. The Mahomedan Law of Divorce the great facility which it affords for effecting Divorces, and the manner in which it may be and doubtless frequently is abused, are all matters which must be perfectly well known to the Members of the Legislative Council. They must know perfectly well moreover that by that Law, such as it is, a Divorce effected in compliance with it's provisions has the effect of entirely dissolving the marriage tie, and making the woman against whom it is pronounced no longer the wife of her former husband, just as much as Acts of Parliament for dissolving marriages in England—and had the Legislature considered it expedient so to do, they might have introduced an express provision (as has been so often done in Acts of Parliament for dissolving marriages in England) that the divorcing husband should be bound to make some provision for the maintenance of the woman from whom he has been divorced.

4. They have not done so, and I see no reason whatever for supposing that they intended to do so. When they do so, they can, and I doubt not will, express their intentions.

5. What Lieutenant Colonel Colbeck means by "the many subterfuges furnished by the *Hindu* Law of Divorce," I confess myself unable to divine. I was under the impression that nothing but actual adultery justified a Hindu husband in "deserting" his wife. Lieutenant Colonel Colbeck must search elsewhere than in Strange's Hindu Law to find a *Hindu* Law of Divorce."

(Signed) THOS. SYDNEY SMITH,
Advocate General.

No. 36. ORDER THEREON, No. 164; dated 2nd February 1858.

Resolved, with reference to his letter of the 11th January No. 1, to inform the Senior Magistrate of Police that, in the opinion of the Advocate General, there is no warrant for supposing, that Section XLIII of the new Police Act is intended in any way to supersede the Mahomedan Law of Divorce. The *Hindu Shastrs*, on the other hand, the Advocate General remarks, afford no such facilities as *Colonel Colbeck* apprehends, for the easy dissolution of the marriage tie.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Dept 2

No 164

Ellangowns 2/2d February/58.

Read the following Letter from the Advocate General. } Have entered 25th Jan 7/5-8

Received, with reference to his Letter of the 11th Jan? No 1, to inform the Senior Mag.e of Police that, in the opinion of the Advocate Genl, there is no warrant for supposing, that Sect XLIII of the new Police Act is intended in any way to supersede the Common Law Law of Divorce - The Hindu Shasters, on the other hand, the Advocate General remarks, afford no such facilities, as Col Colbeck apprehends, for the easy dissolution of the marriage tie -

D.G.C.
26/2-58

Wm

Fth

To Lieut Col H Colbeck - Senr Mag.y of Police } Disp.d 6th
" Advocate General

In Cons. 2d July 1858.
Judicial 1858 Sept 1st

No 164

Extract Mins. of Boards

2/2 February 58—

35—36

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12/21