

(1932) 05 CAL CK 0020
In the Calcutta High Court

Mahendra Lal Bose

APPELLANT

Vs

Gopal Chandra Dey

RESPONDENT

Date of Decision : 05-05-1932

Acts Referred:

Penal Code, 1860 (IPC) — Section 498

Citation : AIR 1933 Cal 144a

Judgement

1. In this case the charge against the accused is that he has committed an offence punishable u/s 498, I.P.C., i.e. of having enticed away a married girl. The husband is not the complainant. It is said that at the time when the complaint was lodged, the husband was ill and that the girl's father, in whose house the girl had been residing, had therefore to be the complainant. The record does not bear any trace, whatsoever that at the time when the complaint was lodged the husband was really ill and therefore unable to lodge the complaint himself, or that there were any circumstances which would have justified the father of the girl in lodging the complaint instead of the husband. That being so, we are constrained to hold that the first point taken by Mr. Basu in support of this Rule must prevail, viz., that the complaint having been one which is in contravention of the terms of Section 199, Criminal P.C., the proceedings were without jurisdiction. The result, therefore is that the conviction and sentence are set aside. The Rule is made absolute. The petitioner will be discharged from his bail-bond. But we desire to observe that nothing that we have said will debar in any way either the husband of the girl or the father of the girl, should such a necessity arise, from instituting a proper complaint against the accused after taking the leave of the Court u/s 199, if he is so advised.