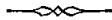


same—namely, that a nátrá marriage has been solemnised between Karsan and Rupá, and that it is the custom of the Talapda Kolí caste that a woman may without the consent of her husband leave him, and contract a valid marriage with another man. We are of opinion that such a caste custom as that set up, even if it be proved to exist, is invalid, as being entirely opposed to the spirit of the Hindú law; and we hold that a marriage entered into in accordance with such a custom is void. The convictions must be upheld, but, as the Judge has found the custom set up by the prisoner to be proved, we reduce the punishment awarded to Karsan Gojá and Báí Rupá to three months', and one month's, rigorous imprisonment, respectively.

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*Sentence altered.*



REG. v. TIMMI'.

April 6.

*Examination of Prisoner—Evidence of Character—Crim. Proc. Code, Secs. 205, 366, 380, and 399.*

The examination of the accused by the Magistrate, not having been recorded in accordance with the provisions of Sec. 205 of the Code of Criminal Procedure, was not admissible in evidence at the trial before the Court of Session under Sec. 366; and the evidence, being, in the opinion of the High Court, insufficient to support the conviction, the prisoner was acquitted under Sec. 399.

It is improper to allow witnesses for the prosecution to state that the accused is not of good character.

THE prisoner was convicted of murder by F. Lloyd, Session Judge of Dhárwár; and sentenced to death, subject to the confirmation of the High Court, under Sec. 380 of the Code of Criminal Procedure.

The case came on for hearing this day before COUCH and TUCKER, JJ.

PER CURIAM :—The Court hold that the examination of the accused before the Magistrate put in evidence before the Court of Session, not having been recorded according to the provisions of Sec. 205 of the Code of Criminal Procedure, was not admissible as evidence in the case; and con-

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sidering that the evidence was insufficient to sustain the conviction, they, under Sec. 399 of the Code of Criminal Procedure, acquit the prisoner, and order that she be discharged.

The Court remark that the Session Judge improperly allowed one witness (No. 1) to state that the accused was not of good character; and that the committing Magistrate allowed several witnesses to give similar evidence before him.

*Conviction and Sentence reversed.*

NOTE.—Before the Court of Session *Bhimji Nilkanth* deposed :—“ I know the prisoner, Timmi. Her husband is alive; but she has left him for two or three years. She is not of good character.”

Before the First Class Subordinate Magistrate of Nargund, amongst other evidence to the same effect, *Ningona*, the mother of the prisoner, deposed :—“ She has been living separate from her husband. She is ill-behaved. I do not know who has kept her.”—Ed.



REG. v. GANU' LA'DU'.

Jan. 8.

*Conviction on several Charges—Aggregate Punishment—Previous Conviction—Crim. Proc. Code, Secs. 22, 46, and 443—Ind. Pen. Code, Secs. 75, 380, and 454.*

Where a person, though charged under different sections of the Penal Code, was convicted of what was substantially but a single offence :—

*Held* that it was not lawful for the Magistrate who tried him to pass a sentence of imprisonment, as for separate offences under Sec. 46 of the Code of Criminal Procedure, exceeding in the aggregate the punishment which it was competent for the Court to inflict on conviction of a single offence.

*Held*, also, that, as the prisoner had already been several times convicted of similar offences, the Magistrate should have committed him to the Court of Session, with a view to his being punished, as after a previous conviction, under Sec. 75 of the Penal Code.

THE prisoner was convicted by T. Bosanquet, Magistrate F. P. at Ratnágiri, of the offences of theft in a dwelling-house, under Sec. 380, and of house-breaking in order to the committing of an offence punishable with imprisonment, under Sec. 454 of the Penal Code; and sentenced to suffer two years' rigorous imprisonment for each of these offences,