

Reg. v, Khatabai, wife of Shek Ismael:

1889
March 4.

*Muhammadan Law—Married Woman—Theft of Husband's
Property.*

A Muhammadan married woman may be convicted of theft, or abetment of theft, in respect of the property of her husband.

The accused was convicted by Major C. E. Naylor, Cantonment Magistrate at Belgam, of theft, "in having dishonestly taken from the possession of her husband, Shek Ismael, certain property, consisting of wearing apparel, ornaments, and household articles, of the value of Rs. 175 or thereabouts," and sentenced, under Sec. 379 of the Indian Penal Code, to undergo rigorous imprisonment for nine months.

The case was referred by the Session Judge, C. F. H. Shaw, for the orders of the High Court, under Sec. 434 of the Code of Criminal Procedure, he being of opinion that a wife in law was so identified with her husband that she could not be convicted of theft of his property.

PER CURIAM (TUCKER and GIBBS, JJ.):—The Court sees no reason to interfere. The act admitted by the accused woman amounts to abetment of theft, and, under Sec. 114 of the Indian Penal Code, she may be deemed to have committed theft. The female in question was a Muhammadan, and consequently there was not between her and her husband the same union of interest which exists between an English husband and wife (*vide* Baillie's Digest of the Muhammadan Law, Introduction xxiv., and p. 145); and among the list of the articles removed with the abetment of the wife there are some which under that law would be recognised as the exclusive property of the husband.

Proceedings returned.