

CRIMINAL APPEAL.

Before Mr. Justice Jardine and Mr. Justice Ránade.

QUEEN-EMPRESS v. RA'GHÓ MAHA'DÚ.*

1894.
August 2.

Bombay Act VIII of 1867, Secs. 10, 11, 12—Duties of the police pátel in cases of unnatural or sudden death—Ancient village system of police not affected by the Code of Criminal Procedure (Act X of 1882).

The ancient village system of police, as regulated by Bombay Act VIII of 1867, remains unaffected by the Code of Criminal Procedure (Act X of 1882) except where the Code contains a specific provision.

Under Bombay Act VIII of 1867, the police pátel has to do much more than merely inform the district police. He has himself to investigate the matter of a crime and obtain all procurable evidence. Under section 11 of the Act, if an unnatural or sudden death occur, or any corpse be found, he must *forthwith* hold an inquest and investigate with the panch the causes of death and all the circumstances of the case, and make a written report of the same. If it appears that the death was unlawfully caused, he must immediately give notice to the police station, and, if the state of the corpse permits, he shall *at once* forward it to the Civil Surgeon or other appointed medical officer. These provisions of the law are likely to be defeated if the police pátel refrains from the proper action until the district police officers arrive on the spot.

APPEAL from the conviction and sentence recorded by A. S. Moriarty, Acting Sessions Judge of Ratnágiri.

The accused pleaded guilty to the charge of murder, and was sentenced to death under section 302 of the Indian Penal Code (Act XLV of 1860).

The sentence was passed subject to confirmation by the High Court.

The accused appealed from the conviction and sentence to the High Court, urging that he was prompted to commit the offence of murder by evil destiny.

Báláji Abáji Bhagvat for accused.

Ráo Sáheb Vásudeo J. Kirtikar, Government Pleader, for the Crown.

JARDINE, J.:—The prisoner, who confessed to the murder both before the committing Magistrate and the Court of Sessions, fully admits his guilt in his appeal to this Court. His petition merely

* Criminal Appeal, No. 197 of 1894.

urges that he was predestined to kill the old woman and she to be killed by him. We confirm the conviction and sentence.

In several recent cases we have noticed a laxity on the part of police pátels, which the Government Pleader is unable to explain by referring us to any directions of the Government or of the district authorities. The ancient village system of police, regulated formerly by Regulation IV of 1818 and Regulation XII of 1827 and now by Bombay Act VIII of 1867, remains unaffected by the Code of Criminal Procedure, except where the Code contains a specific provision. Under the local law the police pátel has to do much more than merely inform the District Police under section 10 thereof, or under section 45 of the Code. Under section 10 he has himself to investigate the matter of a crime and obtain all procurable evidence. Under section 11, if any unnatural or sudden death occur, or any corpse be found, the police pátel shall forthwith assemble an inquest and investigate with the panch the causes of death and all the circumstances of the case, and make written report of the same. If from the inquest it appears that the death was unlawfully caused, he must give immediate notice to the police station, and, if the state of the corpse permits, he shall at once forward it to the Civil Surgeon or other appointed medical officer. Under section 12 the police pátel can make arrests, and under section 13 can take evidence on solemn affirmation, and hold searches.

When he has held an inquest the village headman is required by section 174 of the Code to report the result to the nearest Magistrate authorized to hold inquests.

In the case before us the pátel does not appear to have held the inquest. Neither did he at once send on the body. We have to remark that the command of the law that certain things be done by the police pátel, or be done at once or forthwith, is likely to be defeated if this officer refrains from the proper action until such time as the district police officers have come to the village. In cases of crimes it is obvious that the inquiries and searches that often lead to a knowledge of the perpetrators and are followed by arrests should be at least as prompt as the plain words of the law require. The public order is preserved by each

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public officer doing such things as belong to his duty, and there is danger if a practice grows up whereby any officer shifts his peculiar duty on to some other officer. We will send a copy of this judgment to the District Magistrate.

APPELLATE CIVIL.

Before Mr. Justice Farran and Mr. Justice Candy.

1894.
August 3.

RAMA'BAI AND ANOTHER (ORIGINAL DEFENDANTS), APPELLANTS, v. RANG-
RA'V AND OTHERS (ORIGINAL PLAINTIFFS), RESPONDENTS.*

RANGRA'V AND OTHERS (ORIGINAL PLAINTIFFS), APPELLANTS, v. RAMA'BAI
AND ANOTHER.†

*Adoption—Reversioner, suit by, to set aside an adoption by a Hindu widow—Right of
suit—Remote reversioners—Watan property—Bombay Act V of 1886, Sec. 2(1).*

The right to sue to set aside an adoption by a Hindu widow is, as a general rule, limited to the nearest reversionary heir, and if he without sufficient cause refuses to institute proceedings, or if he has precluded himself by his own act and conduct from so doing, or has colluded with the widow, or concurred in the alleged wrongful act, the next presumable reversioner will be entitled to sue. In such a case, upon a plaint stating the circumstances under which the more distant reversioner claims to sue, the Court must exercise a judicial discretion in determining whether the remote reversioner is entitled to sue, and should require the nearer reversioner to be made a party to the suit.

Raghunáth, a separated Hindu, died possessed of certain property, a portion of which was watan land, and left him surviving a widow Ramábái, a daughter Manubái, and the plaintiffs, who were his brother's sons. Subsequently Ramábái adopted Vishvanáth as a son. Manubái (the daughter), who lived with Ramábái and Vishvanáth, did not take any steps to dispute the alleged adoption. The plaintiffs now sued for a declaration that the adoption, if made in fact, was invalid, and that they were entitled to succeed to the property of Raghunáth on the death of his widow Ramábái.

Held, that as the plaintiffs were entitled under section 2 of Bombay Act V of 1886 to succeed to the watan property in preference to Manubái after the death of Ramábái,

* Appeal No. 105 of 1892.

† Appeal No. 118 of 1892.

(1) Section 2 of the Watan Act (Bombay Act V of 1886) :—

2. Every female member of a watan family other than the widow of the last male owner, and every person claiming through a female, shall be postponed, in the order of succession to any watan, or part thereof, or interest therein, devolving by inheritance after the date when this Act comes into force, to every male member of the family qualified to inherit such watan, or part thereof, or interest therein.

The interest of a widow in any watan or part thereof shall be for the term of her life or until her marriage only.