

Madhavrao Visvanath Nimalkar Vs Shrikrishan Govindrao Kirtikar

Court: Bombay High Court

Date of Decision: Jan. 19, 1923

Acts Referred: Presidency Small Cause Courts Act, 1882 â€” Section 19(q)

Citation: 79 Ind. Cas. 517

Hon'ble Judges: Norman Macleod, C.J; Crump, J

Bench: Division Bench

Judgement

1. The plaintiff filed a suit in the Small Cause Court, Bombay, (alleging that he had been betrothed to the defendant's daughter; that according to

the custom he gave at the time of betrothal two Lugadas one polka and a gold ring of the aggregate value of Rs. 54, and spent Rs. 30 over and

above the value of these articles. Eventually the defendant said he would not celebrate the marriage of his daughter with the plaintiff, hence the suit.

2. The Trial Court held that the suit was excluded from the jurisdiction of the Small Cause Court u/s 19(q) of the Presidency Small Cause Courts

Act, treating it as a suit for compensation for breach of promise of marriage. Such a suit in England is brought against a party who has failed to

perform a promise to marry. A suit for the return of ornaments presented by custom by the prospective bridegroom at the time of betrothal is a suit

of an entirely different nature. We see no reason why we should hold that it is a suit for compensation for breach of promise of marriage we think,

therefore, that with regard to the claim for the return of the two Lugadas, the polka and gold ring, of the value thereof, the Small Cause Court has

jurisdiction. The rule will be made absolute and the suit remanded to that Court for disposal on the merits, with costs here and in the full Court on

the opponent.