

PC
GLHC →

Judgment
55, 1964

IN THE PRIVY COUNCIL

No. 18 of 1964

ON APPEAL FROM THE
SUPREME COURT OF CEYLON

B E T W E E N :

THE ATTORNEY GENERAL OF
CEYLON

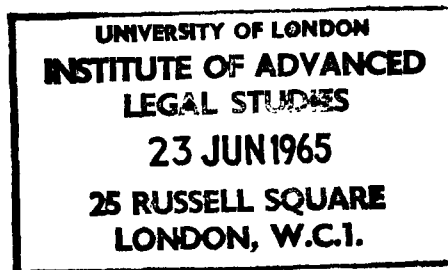
Appellant

- and -

ALLEN ELLINGTON REID
alias IBRAHIM REID

Respondent

RECORD OF PROCEEDINGS



- 78728

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ON APPEAL FROM THE
SUPREME COURT OF CEYLON

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CEYLON

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- and -

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In the District Court of Colombo

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1.

IN THE PRIVY COUNCIL

No. 18 of 1964

ON APPEAL FROM THE SUPREME COURT OF CEYLON

B E T W E E N :-

THE ATTORNEY GENERAL OF CEYLON Appellant

- and -

ALLEN ELLINGTON REID alias
IBRAHIM REID Respondent

RECORD OF PROCEEDINGS

No. 1

INDICTMENT

IN THE DISTRICT COURT OF COLOMBO

THE QUEEN

Versus

ALLEN ELLINGTON REID alias
IBRAHIM REID

No.N2090

In the District
Court of Colombo

No. 1

Indictment
28th October
1961

10

You are indicted at the instance of the Hon. Douglas St.Clive Budd Jansze, Q.C., Per Majesty's Attorney-General, and the charge against you is:

20

That on or about the 16th day of July, 1959 at Slave Island in the division of Colombo, within the jurisdiction of this Court, you having a lawful wife living, to wit: Edna Margaret Fredrica De Witt, did marry Fathima Pansy in which case such marriage is void by reason of its having taken place during the life of the said Edna Margaret Fredrica De Witt and that you have thereby committed an offence punishable under Section 362B of the Penal Code.

30

This 28th day of October, 1961.

(Sgd.) T.M.K.Seneviratne
CROWN COUNSEL.

In the
District Court
of Colombo

No. 1

Indictment
28th October
1961
(continued)

22.11.61

D.C. 2090/19757

Mr. Adv, Thamotheram, Deputy Solicitor General with
Mr. Adv.N.Sinnathamby, Crown Counsel, for the
prosecution.

Mr. Adv. Kumarasingham with Mr. Adv. Bartlet
instructed for the accused.

The Charges are read over and explained to the
accused.

The accused states "I am not guilty".

Mr. Thamotheram calls -

10

Prosecution
Evidence

No. 2

Edna Margaret
Fredrika Reid
Examination

PROSECUTION EVIDENCE

No. 2

Edna Margaret Fredrika Reid

EDNA MARGARET FREDRIKA REID nee De Witt sworn, wife
of accused, 54 years, Good Shepherd Convent, Nuwara
Eliya.

The accused is my husband. I married the
accused on 18.9.33 at St. Mary's Church, Badulla.
The Rev. Fr.P.Casperez solemnized the marriage.
The witnesses to the marriage were Aloysius Henry
the father of the accused and the late E.J.S.Kalu-
golla a planter. He was a tea maker.

20

Shown marriage certificate Pl.

This is the marriage certificate relating to
my marriage with the accused. I lived with the
accused till 25.5.57 and had 8 children by him of
whom 6 died and 2 are living. One of the surviving
children is married and the other is about 13 years
of age. I left this accused in 1957. I was
staying in Government Quarters in Nuwara Eliya. He
gave me a letter to leave my home in Government
quarters and I left him. I came to my daughter's
house in Colombo thereafter. I had certain
suspicions with this lady Miss Pansy Kauwe.
Pansy de Kauwe is a witness in this case. It was
to her he subsequently married in law. She was
living with him in the Govt. Quarters after I left
home. I left him in May 1957. Thereafter I

30

sued the accused for maintenance. The order for maintenance was in a sum of Rs.100/- a month for myself and my minor child. He was not regular in paying this sum. He paid me many times; however he is still in arrears. In July 1959 there was a sum of nearly Rs.1000/- due to me as arrears of maintenance from the accused. After he married Pansy de Kauwe he paid me but again he fell into arrears.

In the
District Court
of Colombo

Prosecution
Evidence

No. 2

Edna Margaret
Fredrika Reid

Examination
(continued)

10 Shown P2.

This is the notice I received from Mr. M.A. Thassim the quazi. That is a notice given by the accused to the quazi of his intention to contract a marriage with Miss Pansy de Kauwe. In that notice the accused has changed his name to read from "Allen" to "Ibrahim". The name of the proposed bride was -

Mary Pansy Clare de Kauwe.

20 She has changed the name to "Fatima Pansy". When I received this notice I protested to Mr. Thassim against this action of the accused. I wrote to quazi Mr. Thassim letter marked P3A dated 20.6.59. In this I stated that an open warrant is issued for my husband's arrest for failure to pay maintenance to me in M.C. Colombo Case No.30229. I also mention the fact that I had not been legally separated from him and that he defaulted in payment for 9 months. P5A is a letter I wrote to Mr. Thassim the quazi on 4.7.59. In P5A I have
30 again re-iterated my protest. Earlier too by another letter dated 30.6.59 marked P6A I protested and urged my objections against this action of the accused.

40 I received postcard P4 from Mr. Thassim asking me to attend his court. In compliance I attended his court. The accused was not present that day. I made my representations strenuously objecting to the proposed action of the accused. I received letter dated 15.8.59 marked P8 from Mr. Thassim informing me that permission had been granted to the accused to marry. I was also informed that the accused was a muslim convert and that permission had been granted to the accused to marry Fatima Pansy. I now know that this accused got married to Fatima Pansy on 16.7.59 at Saunders Court Colombo. The marriage has been solemnized by the muslim registrar Amir.

In the District Court of Colombo

Prosecution Evidence

No. 2

Edna Margaret Fredrika Reid

Cross-examination

CROSS-EXAMINED:

I first got married in 1933. I married in St. Mary's Church, Bedulla, according to Christian rights. At that time my husband and I were devout Christians. I came to know that the accused was going to marry under the Muslim Rights only after I got to Nuwara Eliya. I wrote to Mr. Thassim because I received the notice of declaration of marriage from Mr. Thassim. I wrote to Mr. Thassim. Mr. Thassim told me that the accused had become a Muslim and nothing can be done about it and that he will see that I get my legal rights.

10

Q. Would you have fallen in love with him if he was a Buddhist? A. That all depends on love.

Q. If he did not agree to marry in Church, would you have agreed to marry him?

A. If we knew that we were going to be happy we would have got married.

I would not have married outside the Church. If the accused refused to marry in Church I would not have married him.

20

RE-EXAMINED: Nil.

(Sgd.) A.E. Buultjens
A.D.J.

No. 3

M. A. Thassim Examination

No. 3

M. A. THASSIM

M. A. THASSIM, Proctor S.C. & N.P., 48 years, Colombo.

I am the quazi for Colombo South. I have been quazi from 1957 in Colombo. Prior to that I was quazi in Galle in 1954.

30

I know this accused. He came to me in 1959 seeking to obtain a certificate under Section 24 of the Muslim Marriage & Divorce Ordinance. A muslim married man who desires to marry again has to give notice to me under Section 24(1) of the Muslim Marriage and Divorce Ordinance.

Shown P10..

This is issued under Section 24(1) of the Muslim Marriage and Divorce Act. The accused sent me a notice seeking a certificate under Section 24(1) produced marked P2.

(P2 is a copy of that notice which was sent to the first wife of the accused).

I issued notice, under Section 24 of the intention of the accused to marry again to his first wife Edna Reid. The muslim marriage registrar cannot marry anybody a second time without a certificate from me that I have received a notice one month earlier of an intention to marry. The registrar of marriages cannot marry a muslim a second time without a certificate by me that the required notice had been given. I examine the parties in order to ascertain whether that notice empowering the registrar to marry should be granted or not. I received three letters from Edna Reid produced marked P3A, P5A and P6A protesting vehemently against the action of the accused. Postcard P4 and P8 were written by me to her. She also attended my court and orally protested against the proposed marriage. I produce marked P10 which is a copy of the certificate.

CROSS-EXAMINED:

Kathi is a Judge. Those conversant in Muslim Law are appointed as kathi. I am fairly conversant in Muslim Law. A muslim can have up to 4 wives at the same time. Any person can have four wives. According to the Act of 1951 I have to be informed and the other party noticed. According to the Act I must be satisfied that the party applying to contract a 2nd marriage is a muslim. I was satisfied that the accused was a muslim. He brought a letter from a priest that he was a converted muslim. The accused brought to me a letter from the officiating priest that the accused was a convert and that the name "Ibrahim" has been given to him.

RE-EXAMINED:

At the time I issued the certificate I knew that the first marriage was under the General Marriages Ordinance. The accused told me that. If any person comes to me and expresses his desire to embrace Islam I or any muslim to whom he goes has

In the District Court of Colombo

Prosecution Evidence

No. 3

M. A. Thassim

Examination (continued)

Cross-examination

Re-examination

In the District Court of Colombo

to ask him to repeat the words -

La Ilaha il-Allah (There is no God except Allah).

Prosecution Evidence

Once that is done a man is a full muslim. In Muslim Law plurality of husbands is not permitted to a woman.

No. 3

M. A. Thassim Re-examination (continued)

Sgd. A. E. Buultjens A.D.J.

No. 4

No. 4

Fatima Pansy Reid

FATIMA PANSY REID

10

Examination

FATIMA PANSY REID, wife of Ibrahim Reid, affirmed, 43 years, Colombo.

Before I was married to the accused under the Muslim Law I was married to Vincent De Kauwe. I married him in 1933. I obtained a divorce from him. I had 7 children by that marriage. I was Miss Vonhagd then.

When I first married I stayed in Wellawatta, then at Nugegoda and at different other places. Before I married my 2nd husband I did not live at Nuwara Eliya. I got married to the accused on 16.7.59 at the Muslim registrar's office at No.21/6, Saunders Court, Colombo 2. The registrar was Mr. Amir who solemnized the marriage. The witnesses were -

20

Before this marriage I had known the accused for a very long time. We knew each other for about 15 years before our marriage.

Cross-examination

CROSS-EXAMINED:

I was also a muslim before I married him. I became a muslim on 13.6.58. That is one month before our marriage. Before that I was a Christian.

30

Q. Did you know that the accused was a Muslim at that time? A. Yes. He told me that he became a muslim.

I was instructed in the Muslim Faith. I read the books and went through the Commandments. I then found out that it was also the same as Catholicism. Further as I was being taken away from the Church due to my divorce I thought I would be buried just in an ordinary way in an ordinary place; therefore I thought that I should belong to one Faith and so I became a Muslim.

In the District Court of Colombo

 Prosecution Evidence

 No. 4

10 Q. But one month after your conversion you got married? A. Yes.

(Sgd.) A. E. Buultjens
 A.D.J.

Fatima Pansy Reid
 Cross-examination
 (continued)

No. 5

M. T. T. AMIR

No. 5

M.T.T.Amir
 Examination

M.T.T.AMIR, 60 years, priest at the Vekanda Mosque, affirmed, Colombo.

20 I am the registrar of Muslim Marriages at Slave Island. On 16.7.59 I registered the marriage between this accused and one Fatima Pansy at No. 21/6, Saunders Court, Colombo 2.

Shown P11A.

This is the certificate of marriage between the accused and Fatima Pansy. Before registering the marriage I received the notice issued by Mr. Thassim under Section 24 of the Muslim Marriage Act.

I converted the accused and Fatima Pansy on 13.6.58. I instructed, converted and did everything on 13.6.58.

30 CROSS-EXAMINATION:

Cross-examination

If a person comes to me and says that he wants to embrace Islam I won't refuse to convert him.. On 13.6.58 the accused also came to me. One S.M. Salim and one Mohideen were present there and in their presence the accused became a muslim.

I will have to get a certificate from a kathi before I can register the marriage. At the time

In the District Court of Colombo

the accused came to marry I knew that he had been married earlier. At the time the accused was being converted I did not know that he was married before.

Prosecution Evidence

RE-EXAMINATION:

No. 5

I did not know that the accused was married under the General Marriages Ordinance.

M.T.T. Amir Cross-Examination (continued)

Islam is a vast subject. These parties understood the principles of Islam. Within not even one hour the accused and Pansy Reid understood the principles of Islam.

10

Re-examination

Further Cross-examination

CROSS-EXAMINED with permission of Court -

Q. If a man comes to you and wants to become a muslim, he need not know all the subject of Islam?
A. I only ask him to recite the Kalima.

If a person wants to become a muslim I ask him to recite the Kalima and then he is made a muslim.

(Sgd.) A. E. Buultjens
A.D.J.

No. 6

No. 6

20

D.T. Gamlath Examination

D. T. GAMLATH

D. T. GAMLATH, clerk - Registrar General's Office, Colombo, 30 years, affirmed.

I represent the Registrar General in Court today. P1 is a certified copy of the marriage certificate between the accused and Edna Margaret Fredrika de Witt who married on 18.9.33 at St. Mary's Church, Badulla. The marriage was solemnized by Rev. Fr. Philip Caspersz.

(Sgd.) A.E.Buultjens
A.D.J.

30

The Deputy Solicitor General closes his case for the prosecution reading in evidence the statement of the accused and documents marked P1, P2, P3A, P4, P5A, P6A, P8, P10, and P11A.

(Sgd.) A.E.Buultjens
A.D.J.

I call upon the accused for his defence.

(Sgd.) A. E. Buultjens
A.D.J.

In the
District Court
of Colombo

Defence
Evidence

No. 7

Allen Ibrahim
Reid
Examination

DEFENCE EVIDENCE

No. 7

ALLEN IBRAHIM REID

Counsel for the accused calls -

ALLEN IBRAHIM REID, affirmed, 55 years, retired
Govt. clerk, Nuwara Eliya.

10 I was born a Christian and in 1933 I got
married according to Christian Rights. Subse-
quently I became a muslim. I became a muslim
through conviction by reading books of the Islamic
Faith and discussing this religion with muslim
friends. I have been associated with the Muslim
Faith for 7 or 8 years.

Q. What was the redeeming thing that made you
to embrace Islam?

A. I was convinced of the common brotherhood among
the Muslims, and the simplicity of the Muslim Faith.

20 I met Mr. Amir the muslim registrar and he
recited the Kalima. There were other witnesses
when I repeated the Kalima.

According to Muslim Rights I contracted the
2nd marriage.

CROSS-EXAMINED:

Cross-
examination

I was a Christian when I married first. I
married in Church. My wife was a Christian and the
marriage was under the General Marriage Ordinance.

30 Q. Under that marriage you can only have one
wife? A. I know that.

Q. Do you know that if you want to get rid of
the 1st wife you must divorce her? A. Yes.

I knew that without that dissolution I could
not get married again.

In the District Court of Colombo

Defence Evidence

No. 7

Allen Ibrahim Reid

Cross-examination (continued)

I became a muslim on 13.6.59. I gave notice of my intention to marry another wife according to the Muslim Faith one day after I became a muslim. My second wife became a muslim on the same day I was converted. Our marriage took place on 16.7.59.

Q. Did you fall in love with your wife after you got converted or before?

A. About the same time I was converted I fell in love with Fatima Pansy.

If I wanted to get rid of my first wife I could have deserted her and asked her to go to the courts.

10

Q. The law cannot force me to abide by a single marriage? A. Yes.

RE-EXAMINED: Nil

(Sgd.) A. E. Buultjens
A.D.J.

No. 8

Counsel's Addresses
22nd November
1961

No. 8

COUNSEL'S ADDRESSES

Mr. Thamotheram addresses me.

20

He states that the question for decision is whether a man contracting a monogamous marriage under the General Marriages Ordinance can thereafter evade the consequences of such marriage by becoming a muslim.

He argues that under the General Marriages Ordinance no man can marry more than one wife unless the marriage is dissolved by death or divorce.

Section 18 of the General Marriages Ordinance referred to.

30

The preamble to the General Marriages Ordinance states that this applies to marriages bar among muslims.

Section 35(2) referred to re injunction by the registrar to the contracting parties regarding consequences of another marriage.

Accused is charged under Section 362(b).

In the
District Court
of Colombo

Mr. Thamotheram states that as long as the monogamous marriage with Edna subsists the accused cannot have another legal wife. He cites -

No. 8

Eversville on "Domestic Relations", p.4 (1st Chapter deals with the legal character of marriage).

Counsel's
Addresses
22nd November
1961

(continued)

10

The first marriage involving two parties to the first marriage had certain attendant consequences affecting both parties. It is not possible to change the character of that marriage by one party becoming a muslim.

He states that a muslim who is converted to Christianity cannot marry under the General Marriages Ordinance. He argues that there is a disability attached to the person who contracted under the General Marriages Ordinance.

20

Under Section 18 "no marriage" means "any marriage" including marriage according to the Muslim Faith.

He draws attention to the statement of Denning, L.J. in -

Kenword and Kenword, All England Report, (1950) page 297 at page 309.

(Sgd.) A.E.Buultjens
A.D.J.

Further hearing tomorrow (23.11.61)
after 2.00 p.m.

30

(Sgd.) A.E.Buultjens
A.D.J.
22.11.61.

23.11.61

D.C.2090/19757

23rd November
1961

After adjournment for lunch

Dy. Solicitor General continues his address.

Section 18 of the New Enactment is Section 17 of the Old Enactment.

In the
District Court
of Colombo

No. 8

Counsel's
Addresses
23rd November
1961
(continued)

Section 35(2) of the New Enactment is Section 33 of the Old Enactment.

Section 64 of the New Enactment is Section 59 of the Old Enactment.

Mr. Thamotheram states that he has cited the sections according to the New Legislative Enactment. The wording of the sections themselves, he states, do not differ from the corresponding sections of the Old Legislative Enactments. He cites -

43 Criminal Law Journal of India
Vol:20 page 3 - The Emperor vs.

10

Noordeen.

Counsel for Accused addressed Court.

Prosecution has not shown that there was a second marriage.

The Marriages (General) Registration Ordinance does not apply to Kandyans and Muslims.

Section 99(1) of the Muslim Marriages & Divorce Act 13 of 1951 states that the rights of muslims are preserved.

20

(It is noted that Section 98 of the reprint of the new Legislative Enactment corresponds to Section 99 of the earlier print).

Counsel for the accused argues that the moment a person becomes a muslim convert, he acquires all the rights and obligations of a muslim. He states that on conversion the personal law attaches to the convert.

The Indian Act No.3 of 1872 provides for marriages in respect of persons not governed by special laws.

30

Their Section 16 corresponds to Section 362(a) of the Ceylon Penal Code.

Defence counsel argues that for the accused to be liable in this case he must contract a second marriage under the Marriages (General) Registration Act. He states that a muslim convert

from Christianity acquires all the rights and obligations of a muslim. He contends that a marriage of a muslim convert can in no case be declared void. He cites -

52 Criminal Law Journal page 1085 (India).

He argues that in this case reversion can be equated to the circumstances of this case. He also cites -

33 Madras page 371
2 Calcutta (1939) page 12.

He argues that the second marriage is not void as it is permissible for a convert to Muslim Faith to acquire all the rights of a muslim. Under the Muslim Law there are two kinds of marriages -

Muta Marriage and Permanent marriage.

Counsel states that the Magistrate should commit the accused and that the Attorney General has no power to frame an Indictment where there is no committal.

Mr. Thamotheram heard in reply.

He refers to Section 71 of the Muslim Marriage and Divorce Act.

(Sgd.) A.E.Buultjens
A.D.J.
23.11.61.

No. 9

JUDGMENT

23.11.61

Judgment

D.C.2090/19757 Crim.

In the
District Court
of Colombo

No. 8

Counsel's
Addresses
23rd November
1961
(continued)

No. 9

Judgment
23rd November
1961

The accused having a lawful living wife, namely Edna Margaret Fredrika de Witt, is charged in this case with contracting a marriage with Mrs. Pansy De Kauwe, now called Fatima Pansy, which is void by reason of it having taken place during the lifetime of Edna Margaret Fredrika de Witt, thereby committing an offence punishable under Section 362 of the Penal Code.

In the District
Court of
Colombo

No. 9

Judgment
23rd November
1961
(continued)

The accused in this case married Edna Margaret de Witt according to Christian rights at St. Mary's Church, Badulla, on 18.9.33. They were both Christians at this time. The certificate of marriage under the Marriages (General) Registration Ordinance No.19 of 1909 is produced in this case marked P1 in proof of such marriage. Edna Margaret De Witt lived as the married wife of the accused till May 1957. Of this marriage there were eight children of whom two survive, viz; a married daughter and another daughter called Hether of the age of 14 years.

10

In May 1957, Edna de Witt states, she left the accused. She thereafter sued her husband the accused in the Magistrate's Court of Colombo in Action 30229 for maintenance and he was ordered to pay a sum of Rs.100/- per month as maintenance for his wife Edna and their daughter Hether. Edna de Witt produces P2, a notice dated 14.6.59, received by her purporting to have been issued under Section 24(1) of the Muslim Marriages and Divorce Act of 1951. This notice is signed by Mr. M.A. Thassim, quazi for Colombo South as well as the accused, and it declares that the accused intends to marry Fatima Pancy, formerly Mrs. Pancy Mary de Kauwe. In this notice the accused styles himself "Ibrahim Reid". To this notice Edna De Witt addresses a letter to Mr. Thassim dated 20.6.59 marked P3A protesting against the action of her husband and complaining that nine months' arrears of maintenance was due to her from the accused in Case No.30229 which has not been paid. In reply to her protest she received from Mr. Thassim postcard dated 26.6.59 marked P4 requiring her to appear before him and place her objections. Once again Edna De Witt wrote to the Quazi Thassim by letter dated 30.6.59 marked P6A protesting against the action of her husband in intending to contract the 2nd marriage. By another letter dated 4.7.59 marked P5A she brings to the notice of the quazi Mr. Thassim that her husband proposes to enter into a second marriage. Edna de Witt also attended the court of the quazi and orally informed him of her objections. She also mentioned to him the fact that the accused was in arrears in a sum of over Rs.900/- being maintenance due to her and to her daughter.

20

30

40

Mr. Thassim by postcard dated 17.8.59 marked P8 informed Edna de Witt that her husband is now a Muslim convert and has been granted permission to marry.

On 16.7.59 the marriage between the accused and Pancy Mary Clare De Kauwe, formerly Won Hagt and now calling herself Fatima Pancy, was solemnized by M.T.T.Amir the Muslim Registrar. (Vide Certificate of Marriage marked P11A). P11A describes Fatima Pancy as a divorcee who obtained a divorce on 9.2.59. The address given in P11A by the bride and bridegroom is -

No.13, Lawries Road, Bambalapitiya.

In the District
Court of
Colombo

No. 9

Judgment
23rd November
1961
(continued)

10 Mrs. Fatima Pansy had admitted in evidence that she was married to the accused on 16.7.59 by the Muslim Registrar Amir. She states that she was previously married to V.B. De Kauwe from whom she was divorced on 7.11.58 and that thereafter she embraced the Muslim Faith.

20 Mr. Thassim the quazi gave evidence that on 14.6.59 accused met him and gave notice of his intention to marry Fatima Pansy. Accused also informed the quazi that he was married earlier under the Marriages (General) Registration Ordinance. Mr. Thassim mentioned that he accordingly under Section 24(1) of the Muslim Marriage and Divorce Act of 1951 issued notice on Edna the wife of the accused. He admits that Edna the wife of the accused objected to this marriage and that he granted permission to the accused to marry. According to Mr. Thassim, he entertained no doubts about the genuine conversion of the accused to the Muslim Faith and issued the necessary certificate P10 without which the 2nd marriage could not be solemnized. Amir the registrar of Muslim Marriages who solemnized the marriage between the accused Pancy De Kauwe states that he was instrumental in converting the accused and Pancy De Kauwe to the Muslim Faith on 13.6.59 which was the first occasion when the accused and Pancy met him. He admitted that the Principles of Islam cover a vast field, but this operation of conversion was successfully effected by him within the space of one hour. On the day following the conversion of the accused to the Muslim Faith the accused proceeds to meet Mr. Thassim the quazi and gives notice of his intention to marry Pansy de Kauwe who is now Fatima Pansy.

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The accused himself has given evidence. He admits that he was a Christian and contracted a marriage with Edna De Witt at St. Mary's Church,

In the
District Court
of Colombo

No. 9

Judgment
23rd November
1961
(continued)

Badulla under the Marriages (General) Registration Ordinance 19 of 1907. He does not deny that his wife sued him for maintenance in the Magistrate's Court of Colombo and that the maintenance payable by him is in arrears. He asserts that he was attracted to the Muslim Faith by its Brotherhood and its simplicity and that the final conversion took place on 13.6.59 before Amir the registrar of Muslim Marriages who married him one month later. According to him, he fell in love with Fatima Pancy in the process of his conversion. He also admits that one day after his conversion he approached Mr. Thassim the quazi and gave notice of his intention to contract a second marriage. He appears to have wasted no time in availing himself within 24 hours of the provisions of the Muslim Marriage and Divorce Act No.13 of 1951 which were in direct conflict with the tenets of his earlier Faith. 10

I cannot refrain from saying that had Mr.Thassim the quazi not permitted himself to be so easily convinced of the conversion of the accused, this marriage would not have taken place. 20

It is not in dispute that the accused and Edna De Witt were both Christians at the time of their marriage according to the Christian Rights on 18.9.33 under the provisions of the Marriages (General) Registration Ordinance No.19 of 1907. This has not been dissolved by a judgment of divorce.

The question that arises in this case is whether the accused in contracting this second marriage is guilty of bigamy. 30

The defence attacked the case for the prosecution upon the following grounds:-

- (a) Firstly that proof was lacking that accused had contracted a second marriage;
- (b) Secondly that the committal of the accused after his discharge by the Magistrate was not warranted by law;
- (c) Thirdly that assuming that there was a valid marriage under Muslim Law, the accused, a converted Muslim, was entitled to contract a polygamous marriage. 40

I shall deal with the first contention. Accused has given notice of marriage P2 of his intention to marry under the Muslim Marriage & Divorce Act of 1951. Mr. Thassim mentions that accused intimated to him his plan to marry Fatima Pansy. Amir the registrar positively states that he married accused and Fatima Pansy according to Muslim Rights. Accused himself and Fatima Pansy both admit their marriage. The certified copy of the marriage of the accused and Fatima Pansy is produced marked P11A. Under Section 71 of the Muslim Marriage & Divorce Act No.13 of 1951 a certified copy of the entry in the Register of Marriages maintained under this Act shall be received in Courts as the best evidence of the marriage. It is patent that the accused contracted a second marriage on 16.7.59 under the Muslim Marriage & Divorce Act. The argument raised by the accused on this ground is without merit.

In the
District Court
of Colombo

No.9

Judgment
23rd November
1961
(continued)

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Counsel for the accused secondly maintained that it was not within the power of the Attorney General to commit the accused for trial inasmuch as he had been discharged in this case on two occasions by the Learned Magistrate in the course of non-summary proceedings. This discharge will certainly not operate as a bar to the trial of the accused in this Court. It is well within the power of the Attorney General to direct a committal of an accused where he is of opinion that the accused should not have been discharged, under Section 391 of the Criminal Procedure Code. This the Attorney General has done by his order dated 24.7.61.

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I shall now pass on to the third objection raised, viz: that the accused on assuming the Muslim Faith is entitled to contract a subsequent marriage under the Muslim Marriage and Divorce Act while his first marriage is still subsisting. Under Section 19(1) of the Marriages (General) Registration Ordinance No.19 of 1907 no marriage contracted under its provisions shall be dissolved during the lifetime of the party except by a judgment of divorce "a vinculo matrimonii" pronounced in some competent court. The proceeding section, viz: Section 18, declares that -

"no marriage shall be valid where either of the party thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void".

In the
District Court
of Colombo

No. 9

Judgment
23rd November
1961
(continued)

'Marriage' is defined under Section 64 to mean any marriage save and except marriages contracted between persons professing Islam. The 'prior marriage' contemplated in Section 18 is a marriage under the provisions of the Marriages (General) Registration Ordinance. The preamble to the Marriages (General) Registration Ordinance states that it is an Ordinance to amend and consolidate the law relating to marriages other than the marriage of muslims. It will thus be observed that a subsequent marriage by one who married under the Marriages (General) Registration Ordinance is totally prohibited during the lifetime of the partner unless the earlier marriage has been dissolved by a judgment of divorce or declared void. The Marriages (General) Registration Ordinance provides for only monogamous marriages and it is not permissible for one to contract a marriage under this Ordinance and thereafter evade its consequences by becoming a muslim. The Learned Deputy Solicitor General drew my attention to the form of address by the registrar under Section 35 to the contracting parties cautioning them that if another marriage is contracted before the earlier marriage is legally dissolved, it shall be bigamous. Clearly, when the accused went through the form of marriage with Pansy de Kauwe, there was a valid marriage subsisting between him and Edna de Witt which had not been dissolved or declared void. The apostacy of the accused and the profession by him of the Muslim Faith clearly does not dissolve the earlier marriage or declares it void so as to enable him to contract a polygamous marriage under the Muslim Law. The accused was a Christian and married as such and he could re-marry legally only if he complied with Section 19(1) of the Marriages (General) Registration Ordinance No.19 of 1907. The accused cannot, by renouncing Christianity and embracing Islam, cast off the obligations which he contracted at the time of his Christian marriage. Section 362(b) of the Penal Code applies only to classes of persons to whom polygamy is prohibited and in such case the second marriage would be void owing to the continuance of the first.

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Monogamy is an unalterable part of the status of every person who marries under the Marriages (General) Registration Ordinance and a change of religion cannot affect that status. Conversion to the Muslim Faith, even if genuine, cannot enable one who has married under the General Marriages

Ordinance to contract a polygamous marriage; such a marriage is void in the lifetime of a former wife.

In the
District Court
of Colombo

No. 9

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23rd November
1961
(continued)

10 The prosecution as well as the defence referred to the case of Emperor vs. Ruri, reported in the Criminal Law Journal of India Vol; 20 (1919) page 3. In this case a Christian wife renounced Christianity and became a convert to the Muslim Faith; thereafter she married a muslim. It should, however, be noted that in this case it was a woman who was converted and married subsequently according to Muslim Law which prohibited a plurality of husbands, but the principles enunciated in this action are not wholly inapplicable to the present case. The case for the woman was strenuously argued by leading counsel Dr. Shuja-ud-din on the footing that a Christian conversion to the Muslim Faith operated to dissolve the Christian marriage and invested her with the right to contract
20 a second marriage. This argument was rejected by the Courts who held that under the Christian Marriage Law a marriage is indissoluble except by death or divorce and that a Christian marriage remains unaltered by conversion to Islam.

30 The case of Emperor vs. Anthony, which was referred to by counsel for the defence, was also cited in the above case of Emperor vs. Ruri. Emperor vs. Anthony was an instance of a Hindu converted to Christianity relapsing into Hinduism and marrying a Hindu. The rules governing conversion and then re-conversion need not be considered for the purpose of a decision of this case.

40 The case of Chandra Butta vs. Chandra Sen which is reported in All India Reporter (1939) Calcutta Section page 417 was also cited. This was an action brought for declaration of title by the purchaser from the daughter of a minor of a muslim convert from Christianity who embraced Islam and married a Mohamedan during the subsistence of his earlier Christian marriage against the heir of the 1st wife. The position taken by the heir was that the 2nd union was adulterous. The Court held that under Mohamedan Law, where a Christian embraced Islam, he acquired the right which a Mohamedan possessed and can contract a valid marriage though the first one with the Christian wife subsisted.

In the
District Court
of Colombo
No. 9
Judgment
23rd November
1961
(continued)

In still another case, reported in Moore's Indian Appeals, Vol: 14 (1871-1872), page 309, this question was touched upon. The dispute in this case affected the guardianship of the minor child of one George and Helen Skinner. George Skinner died and Helen Skinner contracted a marriage in Mohamedan form with one Thomas John who was already the husband in a Christian marriage of a living Christian wife. Helen and John became Mohamedans prior to their Mohamedan marriage. The High Court of India expressed its doubt of the legality of this marriage and the Privy Council was of the opinion that this view of the High Court was well warranted. This point, however, was not directly in issue as the Court decided that the minor should be placed under a Christian Guardian considering the unsuitability on the merits of the Muslim home. It is noteworthy that in this case the man and woman both embraced Islam prior to the subsequent marriage. The opinion expressed by the Privy Council regarding the illegality of this marriage is entitled to the weight which it deserves. 10 20

There is yet another case which I have come across reported in 49 Calcutta Weekly Notes (1945) page 745 - Bibi vs. Kumar. The report unfortunately is not available to me but the head-note indicates that it was decided that a marriage solemnized in India according to personal law could not be dissolved by another personal law because one of the parties changed his religion. 30

In Ceylon Section 18 of the Marriages (General) Registration Ordinance expressly declares to be invalid a marriage where either of the parties had contracted an earlier marriage which has not been dissolved or pronounced void. It is not clear whether in India there exists a section similar in effect to our Section 18. I have in this case to determine the impact of Section 18 of the Marriages (General) Registration Ordinance upon the Muslim Law. On a consideration of Section 18 and the Indian authorities I am of the opinion that the accused in contracting a second marriage is guilty of bigamy. The prosecution maintains that it is immaterial whether the conversion of the accused to the Muslim Faith is genuine or pretended and that in any case the second marriage was void. If I am called upon to decide this matter I would, without the slightest hesitation, hold that the alleged 40

conversion to Islam was only a device adopted by accused to marry a second time in the hope that it would perhaps enable him to cast aside the obligations of his earlier marriage.

I find the accused guilty of the charge against him.

In the District Court of Colombo No. 9 Judgment 23rd November 1961 (continued)

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The learned Deputy Solicitor General who appeared for the prosecution observed that there is no authoritative decision on this point in Ceylon.

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The accused has admitted to the quazi Mr. Thassim to whom he gave notice of marriage and the muslim registrar Amir when he contracted this marriage, that he was previously married under the Marriages (General) Registration Ordinance. It appears that the accused entertained some belief regarding the validity of this marriage which has been strengthened by the accommodating attitude of the quazi and the registrar. This to some degree mitigates the action of the accused, but will certainly not exculpate him. In the circumstances, I sentence the accused to serve a term of three months' rigorous imprisonment.

(Sgd.) A. E. Buultjens
A.D.J.
23.11.61.

No. 10

PETITION OF APPEAL

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the Supreme Court

No.10

30

THE ATTORNEY GENERAL OF CEYLON
Complainant-Respondent

Petition of Appeal
24th November 1961

Vs.

IBRAHIM REID alias A. E. REID
Accused-Appellant.

J.M.C.No.19757
D.C.Colombo No.N.2090

D.C.(Criminal)
15 of 1962

On this 24th day of November 1961

In the Supreme Court

No.10

Petition of Appeal
24th November 1961
(continued)

To: THE HONOURABLE THE CHIEF JUSTICE AND
THE OTHER HONOURABLE JUDGES OF THE
SUPREME COURT OF THE ISLAND OF CEYLON

1. The accused above-named was charged in the Joint Magistrate's Court under Section 362B of the P.C. of having committed the offence of Bigamy.

2. The case came up for Trial and the Learned Magistrate discharged the accused.

3. The Attorney General committed the accused for Trial in the District Court of Colombo. 10

4. The case was heard on the 23rd November 1961 and the Learned Judge found me guilty and sentenced me to three months RI.

5. Being aggrieved by the finding of the Judge, I appeal to Your Honour's Court on the grounds following, from among other grounds that will be urged at the hearing of the case.

(a) That the Attorney General has no power to commit the accused to face his trial in the District Court of Colombo when the Learned Magistrate has discharged the accused after his reasons recorded at the conclusion of the non-summary inquiry. 20

(b) The Judgment is contrary to law.

2. (1) The General (Marriages) Ordinance has exempted the Kandyans & Muslims from this Ordinance.

(2) The Muslims are governed by a special Ordinance viz: The Muslim Marriage & Divorce Act. Ordinance 13 of 1951, and the Muslims acquire all the personal laws of the Muslims under that Act. 30

(3) The Marriage under the Muslim Law does not become invalid by reason of the Joint Marriage under the General (Marriages) Ord. and as such, I am not Guilty of the offence.

(Sgd.) A. E. Reid
Accused-Appellant

Read and explained to prisoner No.P.8932 I Reid alias Ibrahim Reid who signed in my presence.

(Sgd.) Illegibly.
Jailer, Welikada Prisons. 24.11.61

No.11

In the Supreme
Court

AMENDED PETITION OF APPEAL

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No.11
Amended Petition
of Appeal
28th November,
1961

THE HONOURABLE THE ATTORNEY-GENERAL
OF CEYLON Complainant-Respondent

Vs.

IBRAHIM REID alias A. E. REID
Accused-Appellant.

10 JMC No.19757
D.C.Colombo
No.2090

D.C.(Criminal)
15 of 1962

On this 28th day of November 1961

To: THE HONOURABLE THE CHIEF JUSTICE AND THE
OTHER JUDGES OF THE SUPREME COURT OF THE
ISLAND OF CEYLON

The Petition of Appeal of the Accused-Appellant
above-named respectfully showeth as follows:-

- 20 1. The Accused-Appellant was charged in the Joint
Magistrate's Court, Colombo under Section 362(B)
of the Ceylon Penal Code, of having committed
the offence of bigamy.
- 2. At the Non-Summary Inquiry the Learned
Magistrate discharged the Accused-Appellant
after the case for the Prosecution was closed.
- 30 3. On being directed by the Honourable the
Attorney-General the inquiry was resumed and
at such inquiry the Accused-Appellant gave
evidence and called witnesses. At the
conclusion of the inquiry the learned
Magistrate once again discharged the Accused-
Appellant.
- 4. The Accused-Appellant was discharged by the
learned Magistrate both on questions of law
and of facts.

In the Supreme Court
No.11
Amended
Petition of
Appeal
28th November
1961
(continued)

- 4) 5. The Honourable the Attorney-General however directed the case to be committed for Trial at the District Court, Colombo and it was accordingly committed.
6. The case was heard on the 23rd November 1961 and the learned Judge found the Accused-Appellant guilty and sentenced him to three months rigorous imprisonment.
7. Being aggrieved by the said finding of the learned Judge the Accused-Appellant appeals to Your Lordship's Court on the following among other grounds that may be urged by the Counsel at the hearing of the appeal. 10
- (a) that the Honourable the Attorney-General has no power to commit the Accused-Appellant to face his Trial in the District Court of Colombo when the learned Magistrate has discharged the Accused-Appellant;
- (b) The said Judgment is contrary to law in that, inter alia - 20
- (i) The General (Marriages) Ordinance has exempted the Kandyans and Muslims from this Ordinance,
- (ii) the Muslims are governed by a special Ordinance viz: The Muslim Marriage and Divorce Act Ordinance 13 of 1951 and the Muslims acquire all the personal laws of the Muslims under that Act, 30
- (iii) the Marriage under the Muslim Law does not become invalid by reason of the Joint Marriage under the General (Marriages) Ordinance and as such, the Accused-Appellant not guilty of the offence.
- 5) WHEREFORE the Accused-Appellant begs Your Lordship's Court to be pleased to set aside the said conviction and sentence and to grant the Accused-Appellant such other, and further relief as to Your Lordship's Court may seem meet. 40

(Sgd.) A.E.Reid
Accused-Appellant.

No.12

JUDGMENT

In the Supreme
Court

No.12

Judgment
10th July 1963

No. S.C.15/62
(Criminal)

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

THE QUEEN - Complainant and Respondent

Versus

ALLEN ELLINGTON REID alias
IBRAHIM REID of No.13 Lauries Road,
Bambalapitiya
Accused and Appellant

10

July 11, 1963

The question for decision on this appeal is whether a man who has contracted a marriage under the Marriage Registration Ordinance commits bigamy if, while his marriage is subsisting, he embraces Islam and marries under the Muslim Marriage and Divorce Act a woman who has also embraced Islam.

20

Briefly the facts are as follows:- The appellant Allen Ellington Reid alias Ibrahim Reid was convicted of bigamy, an offence punishable under section 362(B) of the Penal Code, in that, while his lawful wife Edna Margaret Fredrica De Witt was living, he married Fatima Pansy. He has been sentenced to undergo a term of three months' rigorous imprisonment.

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The appellant who was a Roman Catholic married at St. Mary's Church, Badulla, on 18th September 1933 Edna Margaret Fredrica Reid nee De Witt. They had eight children of whom six died. While that marriage was subsisting the appellant on 16th July 1959 married Fatima Pansy Von Hagt at the Muslim Registrar's Office at No.2/6 Saunders Court, Colombo. Her maiden name was Pansy Mary Clair Von Hagt and she first married Vincent de Kauwe who divorced her on 7th November, 1958. At the time of his second marriage the appellant and his second wife had become persons professing Islam. They had been converted by the Muslim priest at the Vekanda

In the Supreme
Court

No.12

Judgment
10th July 1963
(continued)

Mosque on 13th June 1959. On their conversion the appellant was named Ibrahim and his second wife Fatima. The appellant gave evidence admitting the above facts. Section 362(B) of the Penal Code with the breach of which the appellant has been indicted and found guilty reads -

"Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

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In the instant case the appellant had a wife living. Therefore the first element of the penal provision is satisfied. The second element is also satisfied because he contracted a second marriage. The third element is that the second marriage should be void by reason of its taking place during the life of the first husband or wife. Is the third element satisfied? Learned Deputy Solicitor-General maintained that section 18 of the Marriage Registration Ordinance applied and that until the appellant divorced his wife or she died he was not free to contract a valid marriage as his first marriage was registered under that Ordinance. The section on which he relies reads -

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"No marriage shall be valid where either of the parties thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void."

30

The section declares that no "marriage" shall be valid where there is a prior "subsisting marriage". Now what is a marriage for the purpose of section 18. That expression is defined in section 64 and it means - "any marriage, save and except marriages contracted under and by virtue of the Kandyan Marriage Ordinance 1870 or the Kandyan Marriage and Divorce Act, and except marriages contracted between persons professing Islam." There is nothing in the context of section 18 which renders the definition inapplicable. That section has therefore no application to marriages contracted under the Kandyan Marriage Ordinance 1870, the Kandyan Marriage and Divorce Act, and marriages "contracted between persons professing Islam". Although Kandyan

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10 marriages are excluded from the definition and therefore from the ambit of section 18, a Kandyan is not free to marry a second time while the first marriage is subsisting as section 6 of the Kandyan Marriage and Divorce Act declares invalid a second marriage under the Act where the spouse of the previous marriage is alive and the marriage is subsisting. Now the appellant's second marriage was registered under the Muslim Marriage and Divorce Act. Although that Act is not specially mentioned in the definition, marriages contracted by persons professing Islam are excepted. Persons professing Islam can now marry only under the Muslim Marriage and Divorce Act. So that marriages under that Act are not marriages within the definition of the expression "marriage" in the Marriage Registration Ordinance.

In the Supreme Court

—
No.12

Judgment
10th July 1963
(continued)

20 In the instant case Ameer, the Muslim Priest at Vekanda Mosque has testified to the fact that he converted to Islam both the appellant and his second wife on 13th June, 1959, and that on 16th July 1959 he registered their marriage which according to the notice given to the Quazi of the area under the Muslim Marriage and Divorce Act was a Notice of Intention to contract a second or subsequent marriage. The proximity of the date of the second marriage to the date of conversion gives room for the suspicion that the change of faith was with a view to overcoming the provisions of section 18 of the Marriage Registration Ordinance. But that circumstance does not affect the validity of the second marriage.

30 The evidence of the Quazi and the priest who registered the marriage indicates that the requirements of the Act as to registration of the marriage have been observed and that they were satisfied that the parties were persons professing Islam.

40 The appellant is therefore not guilty of bigamy. We quash the conviction and sentence, and acquit him.

ABEYESUNDERE, J. - I agree.

G.P.A. SILVA, J. - I agree.

In the Supreme Court

No. 13

DECREE

No.13

Decree
27th July 1963

No. S.C.15/'62
(Criminal)

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

THE QUEEN Complainant and Respondent

Versus

ALLEN ELLINGTON REID alias
IBRAHIM REID of No.13 Lauries Road,
Bambalapitiya
Accused and Appellant

10

Case No. N.2090/19757 In the District Court of Colombo.

Counsel for Appellant: Mr. Advocate C.S.Barr-Kumarakulasinghe with Messrs. Advocates S. Kanagaratnam and C.W. Perera.

Counsel for Respondent: Mr. Advocate Vincent T. Thamotheram, Deputy Solicitor General with Mr. Advocate G.P.S. de Silva, Crown Counsel.

This case having come before the Hon. Hema Henry Basnayake, Q.C., Chief Justice, The Hon. Asoka Windra Hemantha Abeyesundere, Q.C., the Hon. Gardiye Punchediweage Amaraseela Silva, Puisne Justices, of this Court, for hearing and determination on 1st February and 11th July, 1963.

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It is considered and adjudged that the conviction and sentence imposed on the Accused-Appellant be and the same are hereby quashed and he is acquitted.

Witness the Honourable Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 27th day of July in the year One thousand Nine hundred and Sixty three and Our Reign the Twelfth.

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(Sgd.) N. Navaratnam

Deputy Registrar, Supreme Court.

No.14

ORDER GRANTING SPECIAL LEAVE TO APPEAL

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1963

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT
SIR EDWARD BOYLE

SIR KEITH JOSEPH
MR. RIPPON

In the Privy
Council
No.14
Order granting
Special Leave
to Appeal
20th December
1963

10 WHEREAS there was this day read at the Board
a Report from the Judicial Committee of the Privy
Council dated the 18th day of December 1963 in the
words following, viz:

20 "WHEREAS by virtue of His late Majesty
King Edward the Seventh's Order in Council of
the 18th day of October 1909 there was referred
unto this Committee a humble Petition of the
Attorney-General of Ceylon in the matter of an
Appeal from the Supreme Court of Ceylon between
the Petitioner and Allen Ellington Reid alias
Ibrahim Reid (respondent) setting forth: that
the Petitioner desires to obtain special leave
to appeal to Your Majesty in Council against the
Judgment of the Supreme Court of Ceylon dated
the 11th day of July 1963 whereby the said Court
allowed the Respondent's Appeal against his
conviction on the 23rd day of November 1961 by
the District Court of Colombo of bigamy: that
the question raised by this Appeal is whether
30 a man who contracts a monogamous marriage in
Ceylon under The Marriage Registration Ordinance
which marriage is still subsisting can thereafter
during the subsistence of that marriage lawfully
contract a second polygamous marriage: And
humbly praying Your Majesty in Council to grant
him special leave to appeal against the aforesaid
Judgment of the Supreme Court of Ceylon dated the
11th day of July 1963 or for other and further
relief:

40 "THE LORDS OF THE COMMITTEE in obedience to
His late Majesty's said Order in Council have
taken the humble Petition into consideration and

In the Privy Council
No.14
Order granting Special Leave to Appeal
20th December 1963
(continued)

having heard Counsel in support thereof no one appearing at the Bar on behalf of the Respondent Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of Ceylon dated the 11th day of July 1963:

AND Their Lordships do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

10

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

20

Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW

Exhibits

E X H I B I T S

P1
Certificate of Marriage, Allan Eglinton Reid and Edna Margaret Fredrika De Witt
18th September 1933

No.978

P1
CERTIFICATE OF MARRIAGE, Allan Eglinton Reid and Edna Margaret Fredrika De Witt

30

Application No. M 1443

CEYLON

CERTIFICATE OF MARRIAGE

Register of a Marriage in the Badulla District Division of Badulla District of the Uva Province

			Exhibits
			P1
			Certificate of Marriage, Allan Eglinton Reid and Edna Margaret Fredrika De Witt 18th September 1933 (continued)
	Male Party	Female Party	
1. Name in full of Parties	Allan Eglinton Reid	Edna Margaret Fredrika De Witt	
2. Age (in years)	Twenty five	Twenty five	
3. Civil Condition	Bachelor	Spinster	
4. Rank or Profession and Nationality	Clerk Burgher	Burgher	
5. Residence	Market View Badulla Town	Green Lane Drive Badulla Town	
6. Father's name, in full	Aloysius Henry Reid	Johnson Collette De Witt	
7. Rank or Profession of Father	Retired Foreman of Works	Supervisor of Creameries	
8. Name and Division of Registrar who issued Certificate		Santiago Piyasiri de Silva Yatikinda	
9. Place of Solemnization of Marriage		St. Mary's Church, Badulla	

Solemnized by me this eighteenth day of September 1933.

(Sgd.) D.Philip Caspersz O.S.B.
Registrar (or) Minister

This Marriage was solemnized between us in the presence of:-) Sgd. Allen E. Reid
) Sgd. E.M.F.de Witt

- 30
1. (Signature of Witness:) Sgd. A. H. Reid
{ Name in full, Rank or Pro-) Aloysius Henry Reid,
fession and Residence of) Foreman, Badulla Town
{ Witness.)
2. (Signature of Witness:) Sgd. D.J.S.Kodagoda
{ Name in full, Rank or Pro-) Don Joseph Suwaris
fession and Residence of) Kodagoda, Tea Maker,
{ Witness:) Badulla.

Exhibits

P1

Certificate of
Marriage, Allan
Eglinton Reid
and Edna
Margaret Fred-
rika De Witt
18th September
1933
(continued)

Signed before me, Sgd. D.Philip Caspersz, O.S.B.
Minister.

*I certify that the above is a true copy of
the Statement No.44, furnished to me under
Section 33 of "The Marriage Registration
Ordinance, 1907," of a Marriage solemnized
by Rev. Fr. Philip Caspersz, Minister.

Sgd. E.T.Millington
Provincial Registrar Uva.

Date of entry in Provincial Registrar's or Assistant Provincial Registrar's Register.	}	Twenty first September 1933	10
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*To be filled up only when entering a
Marriage solemnized by a Minister

I, D. Walton, Acting second Assistant Registrar-
General of Marriages in the Island of Ceylon do
hereby certify that the foregoing is a true extract
from the Duplicate Register of Marriages of E.T.
Millington, Provincial Registrar of Badulla District
division, filed in this Office, and the same is
granted on the application of Mrs. A.E. Reid. 20

Sgd. D. Walton

Acting 2nd Assistant Registrar-General.

Registrar-General's Office,
Colombo, 9th February 1942.

P2

Notice of
Intention of
Marriage
14th June 1959

P2

NOTICE OF INTENTION OF MARRIAGE

In the Quazi Court of Colombo South

THE MUSLIM MARRIAGE AND DIVORCE ACT

NOTICE OF INTENTION TO CONTRACT A SECOND OR
SUBSEQUENT MARRIAGE

(Section 24(1))

The Quazi for the Area of Colombo South

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I, Ibrahim Reid formerly known as Allen Eglinton Reid of Nuwara Eliya presently of 13 Lauries Road Bambalapitiya, residing in the area of the Quazi for Colombo South, do hereby give notice of my intention to marry Fathimah Pansy formerly known as Pansy Mary Clair VonHagt 13 Lauries Road Bambalapitiya.

I am the husband of -

(1) Edna De Witt of Good Shepherd Convent Nuwara Eliya.

Sgd. Illegibly
Signature of person giving notice.

Dated: 14th June 1959

Subscribed in the presence of -

1st Witness -

Full name: Tuan Mohamed Jamion

Full address: 26/6 Stewart Street, Slave Island.

Signature: T.M. Jamion

2nd Witness-

Full name: Othman Lebbe Marikar Mohamed Faleel

Full address: 143 Turret Road Colombo. 7.

Signature: O.L.M. Faleel

Sgd. M.A.Thassin
Justice of the Peace
Quazi for Colombo South
137, Turret Road,
Colombo 7.

Exhibits

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Notice of
Intention of
Marriage
14th June 1959
(continued)

Exhibits

P3a

Letter, Mrs.
Edna Reid to
M.A.Thassim
(Original of
P3)
20th June 1959

P3a.
LETTER, MRS. EDNA REID TO M.A.THASSIM
(Original of P3)

G/o Good Shepherd Convent
Nuwara Eliya,
20.6.59

M.A.Thassim, Esq.
Justice of the Peace,
Quasi for Colombo South,
137, Turret Road,
Colombo 7.

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Dear Sir,

Having understood from the notice sent to me through you that my husband, Mr.Allen Eglinton Reid, has gone before the Muslim Marriage and Divorce Court with the intention of contracting a second marriage, I wish to protest against such proceedings, on the under-mentioned grounds:-

1. A case is pending and an open warrant has been issued for my husband's arrest, as he is due to appear in courts on July 3rd., having failed to appear on a previous occasion. My Case No. is 30229 (Colombo Courts). 20
2. I have not given him a separation or a Divorce, though I am at present residing at the above address. My husband's correct address is not the one given in your document, but No.32 Government Quarters, Nuwara Eliya.
3. My husband has to pay me maintenance for a period of 9 months. I have filed action (30229) in order to recover the arrears due for this period. 30
4. The second party mentioned in your notice - as Fathimah Pansy is already married and the mother of seven children. This woman's case for adultery was on June 11th 1959.
5. I have two daughters, one of whom is married and the other is still at school in the Convent here.
6. Although the notice sent was dated 14th June 1959, I have received it only on June 20th. 40

In view of the above facts, I shall be grateful if

you will kindly see that this matter is immediately stopped. Further, I wish to mention that I still go under the name of Mrs. Edna Reid, as no separation has yet been granted.

Thanking you sincerely,

Sgd. (Mrs.) Edna Reid

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POST CARD, M.A.THASSIM to MRS.EDNA REID

M.A.Thassim J.P.
Quazi for Colombo South
137, Turret Road,
Colombo 7.

24.6.59.

Received your letter of 20.6.59. I would advise you to attend my court on a Saturday convenient to you before the 14th of July 1959 to place your objections.

By order.

Sgd. M.A.Thassim

M.A.Thassim J.P.
Quazi for Colombo South
137, Turret Road,
Colombo 7.

Post Card addressed to:

Mrs. Edna Reid,
Good Shepherd Convent,
Nuwara Eliya.

P6a

LETTER, MRS. EDNA REID TO M.A.THASSIM
(Original of P6)

C/o Good Shepherd Convent,
Nuwara Aliya,
30th June 1959.

In the Quazi Court of Colombo South.

Exhibits

P3a

Letter, Mrs.
Edna Reid to
M.A.Thassim
(Original
of P3)
20th June 1959
(continued)

P4

Post Card,
M.A.Thassim to
Mrs.Edna Reid
24th June 1959

P6a

Letter, Mrs.
Edna Reid to
M.A.Thassim
30th June 1959

Exhibits

P6a

Letter, Mrs.
Edna Reid to
M.A.Thassim
30th June 1959
(continued)

To
M.A.Thassim Esqr., J.P.
Quazi for Colombo South

Re Notice of intention to contract a second or subsequent marriage given by Ibrahim Reid formerly known as Allen Eglinton Reid of Nuwara Eliya presently of No.13, Lauries Road, Bambalapitiya.

Further to the objections already submitted by me, Mrs. Edna Reid C/o Good Shepherd Convent Nuwara Eliya by my letter of 20th June 1959, in respect of this notice sent to me, I wish to submit the following objections to the notice:

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The said Ibrahim Reid formerly known as Allen Eglinton Reid is not entitled to give notice under this section as:

- (a) he is not a married male Muslim within the meaning of section 24(1) of Muslim Marriage Divorce Act No.13 of 1951, inasmuch as he did not marry me as a person of the Muslim faith or of the Muslim community. At the time he married me he did so as a Christian subject to the laws and customs which prohibit him from contracting any second or subsequent marriage while the marriage between him and me subsists. Having married him on the expectation that he cannot lawfully or morally marry another woman while our marriage lasts, I submit that his intended marriage amounts to a breach of a marriage contract;

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- (b) he is not living with me or maintaining me or my children as required by this section. He has failed to maintain me, and I had to sue for a maintenance order, in spite of which he is not maintaining me or my children. His failure to comply with my maintenance order is now a matter of judicial inquiry.

Sgd. (Mrs. Edna Reid.)

P5aExhibits

LETTER, MRS. EDNA REID TO THE QUAZI
COLOMBO SOUTH (ORIGINAL OF P5)

P5a

Good Shepherd Convent,
Nuwara Eliya,
4th July 1959.

Letter, Mrs.
Edna Reid to
The Quazi,
Colombo South
(Original of
P5)
4th July 1959

The Quazi,
Colombo South.

10 With reference to the notice of marriage by
A.E.Reid alias Ibrahim Reid a copy of which is sent
to me I strongly protest to the application on the
following grounds:-

1. He is a permanent resident of Nuwara Eliya
working in the Archives Department and
residing at No.32 Government Quarters,
Nuwara Eliya.
2. The woman to whom he is to get married is
also living with the said A.E.Reid alias
Ibrahim Reid in the same house in Nuwara Eliya.
- 20 3. He has to maintain his child Heather aged 11
years who is being educated at the Good
Shepherd Convent Nuwara Eliya.
4. He has been ordered to pay maintenance to me
and my child at the rate of Rs.100/- a month
in case No.30229 Maintenance, M.C.Colombo.
5. I was married to him on 18th September 1933
and my marriage has not been dissolved.
6. The woman he intends marrying is one Mrs.W.V.B.
de Kauwe who has seven children of whom two
are married.
- 30 7. His application to marry a second time is an
attempt to evade payment of maintenance to me
and my child.
8. He does not file a divorce action as he knows
that such an action will have to be instituted
in the Nuwara Eliya Courts.
9. The Quazi Court, Colombo South, has no Juris-
diction to entertain this frivolous application
as the parties concerned are from Nuwara Eliya.

Exhibits

P5a

Letter, Mrs. Edna Reid to The Quasi, Colombo South (Original of P5) 4th July 1959 (continued)

10. Under the above circumstances I vehemently protest to this application of my husband to marry Mrs. de Kauwe alias Fathima Pansy, when my marriage with him has not been dissolved.

Sgd. (Mrs.) Edna Reid.

P10

P10
Certificate of Receipt of Notice 15th July 1959

CERTIFICATE OF RECEIPT OF NOTICE

In the Quazi Court of Colombo South

THE MUSLIM MARRIAGE AND DIVORCE ACT

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CERTIFICATE OF RECEIPT OF NOTICE UNDER SECTION 24(1) OF THE ACT

I, Mohamed Atha Thassim Quazi for the area of the judicial division of Colombo South do hereby certify that Ibrahim Reid formerly known as Allen Eglinton Reid of Nuwara Eliya presently of No.13 Lauries Road Bambalapitiya Colombo did on the 14th day of June, 1959, give notice of his intention to contract a marriage with Pathimah Pansy formerly known as Pansy Mary Clair Vonhagt of No.13 Lauries Road, Bambalapitiya Colombo while his previous marriage with Edna De Witt of Good Shepherd Convent Nuwara Eliya is still subsisting.

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Sgd. M.A.Thassim

Quazi for the area of the judicial division of Colombo South. District. Colombo.

Date: 15th July, 1959.

M.A. Thassim J.P.,
Quazi for Colombo South,
137, Turret Road,
Colombo 7.

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P11aCERTIFICATE OF MARRIAGE
(Copy of P11)

Application No.30395

CEYLON

CERTIFICATE OF MARRIAGEThe Muslim Marriage and Divorce Act, No. 13
of 1951

District:- Colombo.

No.822

10 Registrar's area: Colombo Division

Full name of Registrar } Mohamed Thajudeen Thamim
registering the marriage } Ameer

	Bridegroom	Bride
1. Name in full	Ibrahim Reid	Fathimah Pansy
2. Age	Fifty two years	Forty two years
3. Civil condition	Previously married	Divorcee
4. If divorced, evidence of divorce, if any	No.	Ninth February 1959. No.4126/D Decree Nisi
5. Residence	No.13 Lauries Road, Bambalapatiya	No.13 Lauries Road, Bambalapatiya.
6. Name of father or other guardian in full	No.	No.
7. Nature of Guardianship	No.	No.
8. Amount of Mahr and whether paid or not	} Rupees One hundred and fifty only paid.	

ExhibitsP11aCertificate
of Marriage,
Ibrahim Reid
and Fathimah
Pansy
16th July 1959

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Exhibits

P11a
Certificate
of Marriage,
Ibrahim Reid
and Fathimah
Pansy
16th July 1959
(continued)

9. Amount of Kaikuli:- No.
10. Place of Marriage: No.21/6, Saunders Court
Colombo 2.
11. Date and hour of Marriage: Sixteenth July 1959
(Fifty nine at 5 p.m.)
12. Date of registration: Sixteenth July 1959
(Fifty nine)
13. Full name and residence of first witness:-) Tuan Mohamed Jamion
No.26/6, Stewart
Street, Colombo 2. 10
14. Full name and residence of second witness:) Amjadeen Arsath Saleem
No.35/120 Stewart
Street, Colombo 2.
15. Full name of person conducting "Nikah" ceremony) Mohamed Thajudeen
Thamim Ameer
16. Signature of -
- (1) Bridegroom Sgd. Illegibly. This is the
signature of Ibrahim
Reid. 20
- (2) Brides Wali: Case No.592 dated 15.7.1959
Quazi M.A.Thassim
- (3) First witness: Sgd. Illegibly. This is the
signature of Tuan
Mohamed Jamion.
- (4) Second witness: Sgd. Illegibly. This is the
signature of Amjadeen
Arsath Saleem
- (5) Person conducting Nikah ceremony) Registrar of Muslim
Marriages 30
- (6) Registrar: Sgd. M.T.Ameer

I do hereby certify that the foregoing is a true copy of a Muslim Marriage registration entry filed of record in this office, and the same is issued free of stamp duty for official purposes.

Sgd. Illegibly
Additional District Registrar.
District Registrar's Office,
Colombo, 29.11.1960.

41.

P7

LETTER, MRS. E. REID TO MR. M.A.THASSIM

Good Shepherd Convent,
Nuwara Eliya,
13th August, 1959.

M.A.Thassim Esquire,
Quazi for Colombo South,
137, Turret Road,
Colombo.

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P7

Letter, Mrs.E.
Reid to Mr.
M.A.Thassim
13th August
1959

10 Dear Sir,

I regret very much not to have got a reply to my letters dated the 20th June and 4th July, 1959. I shall now thank you to kindly favour me with an early reply to enable me to take further steps in connection with the "Notice of intention to contract a second marriage" under the Muslim marriage act placed before you by my husband Mr. A. E. Reid alias Ibrahim Reid.

20 It shall also be much appreciated if you have not permitted their request in view of the facts mentioned in my letters to you in protest to such a marriage.

Thanking you,
Sincerely yours,
(Sgd.) (Mrs.) E. Reid.

P8

POST CARD, MR.M.A.THASSIM TO MRS.E.REID

M.A.Thassim, J.P.
Quazi for Colombo South,
137, Turret Road,
Colombo 7.

P8
Post Card,
M.A.Thassim to
Mrs.E.Reid
17th August,
1959

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17.8.59.

With reference to your letter of 13.8.59 re the application of your husband who is a Muslim convert to marry a Muslim convert woman, I have the honour to inform you that permission has been granted to him. Your objections were noted. When you appeared before me I indicated to you

Exhibits

that I am unable to stay or refuse to grant the permit.

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Post Card,
M.A.Thassim
to Mrs.E.Reid
17th August
1959
(continued)

Sgd. M. A. Thassim

Post Card addressed to: Mrs. E. Reid,
Good Shepherd Convent,
Nuwara Eliya.

P12
Court
Authority
14th November
1959

P12COURT AUTHORITY

In the Joint Magistrate's Court of Colombo.
This 14th day of November 1959.

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I, P.D.P.A. Liyanage Inspector of Police of the Crime Bureau of Investigation, Echelon Square Fort, Colombo beg to move the Court for authority in terms of section 129(1) and (2) of the Criminal Procedure Code and to exercise all powers vested in me by Chapter 12 of the Criminal Procedure Code to enquire into a complaint of bigamy reported by A.R.Hemasinghe, Assistant District Registrar of Marriages, Colombo against one Allen Elington Reid alias Ibrahim Reid of No.32 Government Quarters Nuwara Eliya.

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Sgd. P.D.P.A.Liyanage
Inspector of Police; Crime Bureau of
Investigation, Colombo.

Authority granted.

Sgd. Illegibly

Magistrate, Joint Magistrate's Court.

Colombo.

IN THE PRIVY COUNCIL

No. 18 of 1964

ON APPEAL FROM THE
SUPREME COURT OF CEYLON

B E T W E E N :

THE ATTORNEY GENERAL OF
CEYLON

Appellant

- and -

ALLEN ELLINGTON REID
alias IBRAHIM REID

Respondent

RECORD OF PROCEEDINGS

T.L. WILSON & CO.,
6, Westminster Palace Gardens,
London, S.W.1.

Solicitors for the Appellant.

HATCHETT JONES & Co.,
90, FENCHURCH STREET,
LONDON, E.C.3.

~~A. L. BRYDEN & WILLIAMS,
52, Victoria Street, 20, Old Swan Street~~
London, S.W.1.

Solicitors for the Respondent.