

CASES

DECIDED BY

THE SUPREME COURT OF CYPRUS

ON APPEAL FROM THE DISTRICT COURTS,

FROM THE YEAR 1891 TO THE YEAR 1893, INCLUSIVE.

[BOVILL, C.J. AND SMITH, J.]

REGINA

v.

GUILSUM OSMAN.

BOVILL,
C.J.
&
SMITH, J.
1891.
Feb. 28

ADULTERY—PROCEEDINGS INSTITUTED AGAINST DIVORCED WIFE—
OTTOMAN PENAL CODE, ADDITIONAL ARTICLE 201.

Criminal proceedings for adultery can only be taken against a woman by her husband or guardian. A man having divorced his wife on the ground of adultery, afterwards instituted criminal proceedings against her.

HELD: That as by the divorce he had ceased to be her husband, it was not competent for him to institute criminal proceedings against her.

APPEAL of the defendant from the judgment of the District Court of Nicosia.

— It appeared that the husband of the defendant, having found her in the act of committing adultery, divorced her, and subsequently brought a charge of adultery against her.

BOVILL, The defendant was convicted, and sentenced to six months' imprisonment, and ordered to pay the costs of the prosecution.
C.J.
&
SMITH, J.

REGINA The defendant appealed.

v.
GULSUM Diran Augustin, for the appellant, contended that as
OSMAN. the husband had divorced the woman he had no right to
institute criminal proceedings afterwards.

The Queen's Advocate did not address the Court.

Judgment : The Turkish Law provides that an adulterous woman can only be prosecuted on the complaint of her husband or her guardian. It is contended here that this woman was not prosecuted by her husband but by a man who had once been her husband, and that when this man divorced her he deprived himself of his right under the law. The law further goes on to say, that the husband can free the wife from punishment by consenting to receive her back again. The subject is by no means free from doubt, but we think it the safest course to construe the law as strictly as possible, and to hold that where a man divorces his wife and thus deprives himself of all marital control, he has no longer any right to institute criminal proceedings.

Conviction quashed.