

Sub-section (4) of section 24 is in the following terms :—

“24(4). Notwithstanding anything contained in the foregoing sub-sections, the State Government may by notification prohibit the possession of any intoxicant or restrict such possession by such conditions as it may prescribe.”

The Lumsden  
Club  
v.  
The Punjab  
State

Bhandari, C.J.

As this sub-section confers full power on the State Government to prohibit the possession of any intoxicant or to prescribe the conditions on which the possession may be tolerated, and as the State Government has embarked on a policy of prohibition, I can see no objection in principle to a direction that no person should be at liberty to keep any intoxicating liquor in the premises of an unlicensed social club. It is obviously within the competence of the State to prohibit the keeping or possession of intoxicating liquor in any locker or other place in any social club whether the liquor is required for personal use or for purposes of sale or for any other purpose.

For these reasons I would accept Civil Writ Application No. 45 of 1955 and declare that the order refusing to grant a licence to the Lumsden Club contravenes the provisions of Article 14 and must therefore be deemed to be void and of no effect. Ordered accordingly.

KHOSLA, J. I agree.

Khosla, J

FULL BENCH

*Before Bhandari, C.J. and Khosla and Kapur, JJ.*

MR. RAYMOND FRANCIS ISAR, I.C.S.,—Petitioner

*versus*

MRS. ROMA JYOTRMOYI ISAR (R. J. ISAR), AND

ANOTHER,—Respondents

**Matrimonial Reference No. 2 of 1956.**

*Indian Divorce Act (IV of 1869)—Section 17—Adultery—Proof of—Wife developing intimacy with co-respondent—Leaving India for England on the 11th June,*

1956

Aug., 6th

1953, against husband's wishes—Child born on 2nd May, 1954—Husband remaining in India all through.

Held, that in the circumstances there can be no manner of doubt that the wife has committed adultery with the co-respondent.

*Petition for dissolution of marriage under Section 17 of the Indian Divorce Act, IV of 1869, for confirmation of the decree nisi passed by the District Judge, Delhi, on 2nd day of December, 1955.*

A. R. KHOSLA, for Petitioner.

Y. KUMAR, for Respondents.

#### JUDGMENT

**Bhandari, C.J.** BHANDARI, C. J. This is an application under section 17 of the Divorce Act for the confirmation of a decree *nisi* granted to Mr. R. F. Isar, I.C.S., for the dissolution of his marriage on the ground of the adultery of his wife Roma Jyotrmoyi with one Mr. Maurice Loban of London.

It appears from the petition that the parties were married in India on the 26th October, 1946, and cohabited together at Delhi and other places. There is living one child of the marriage, Bubby, who was born on the 4th March, 1948. The husband was transferred to London in the year 1950 and went with his wife and child to live at 14, Tenteren Gardens, where the wife, unknown to the husband, developed intimacy with the co-respondent, a Canadian citizen, who was living with his wife and children in a neighbouring house. The husband came to India on transfer in June, 1952, and was followed by his wife and his minor son. In February, 1953, the wife admitted that after the husband's departure from England

she had entered into adulterous relationship with Mr. Raymond the co-respondent. On the 11th June, 1953, she left by air for England against the wishes of the petitioner and went to live with the co-respondent as his wife. She gave birth to a male child on the 2nd May, 1954. During the period of eleven months from June, 1953, to May, 1954, the husband never left the shores of India.

Francis Isar,  
I.C.S.  
v.  
Mrs. Roma  
Jyotirmoyi  
Isar (R. J.  
Isar), and  
another

The petition was uncontested.

Bhandari, C.J.

There can be no manner of doubt that the wife has committed adultery with the co-respondent. This is clear from the testimony of the husband, from the letters which the wife addressed to her husband and from the letters which the wife of the co-respondent has written to the petitioner. In a letter dated the 11th March, 1953 she asked the petitioner ironically to thank his wife, the respondent, for spoiling her perfectly happy marriage and for ruining the lives of her children. Again, in a letter dated the 3rd April, 1953, she announced her willingness to take her husband back for the sake of the family although the co-respondent appeared to be obsessed with the idea of having the respondent in London. Mr. Bhattacharjea, a cousin of the wife, states that ever since July 1953 she has been living with the co-respondent as his wife, and his statement in this behalf is corroborated by Dr. Bartley of Harley street who attended upon her in connection with her confinement. Dr. Wingate, a medical practitioner of Hammersmith Hospital, who assisted in the delivery of a male child to the wife on the 2nd May, 1954, states that the delivery of the said child was by operative surgery and such delivery was about six weeks premature. This statement finds corroboration in the testimony of Dr. Bartley who deposes that the child was born prematurely, possibly two weeks or so. In Dr.

Mr. Raymond Wingate's opinion conception took place in or Francis Isar, about the last week of August, 1953.

I.C.S.

v.

Mrs. Roma  
Jyotrmoyi  
Isar (R. J.  
Isar), and  
another

—————  
Bhandari, C.J.

If the husband was in this country while his wife was abroad for a period prior to the birth of the child rendering it impossible for him to have been the father, it is obvious that the case is one of non-access and that the wife committed adultery either with the co-respondent or with some other person.

For these reasons I am satisfied that, even if the evidence of the spouses which is likely to have the effect of bastardising the child born during wedlock were excluded from consideration, there is abundant material on the file to justify the conclusion that acts of intimacy took place between the respondent and the co-respondent after she had left for England on the 11th June, 1953, I would accordingly uphold the order of the learned District Judge and confirm the decree *nisi* granted in favour of the petitioner. The parties will bear their own costs. The petitioner has relinquished his claim to damages against the co-respondent.

Khosla, J.

KHOSLA, J. I agree.

Kapur, J.

KAPUR, J. So do I.

#### CIVIL WRIT

*Before Bhandari, C.J. and Bishan Narain, J.*

GOPI PARSHAD,—*Petitioner*

*versus*

THE STATE OF PUNJAB,—*Respondent*

Civil Writ No. 259 of 1955.

1956

Aug., 9th

*Punjab Tobacco Vend Fees Act (XII of 1954)—Sections 4 and 5—Punjab Tobacco Vend Fees Rules, 1954, Rule 4—*