

his habitual demeanour were such as to create a well-founded apprehension that she would suffer worse and more injurious treatment and hardship if she did not submit implicitly and submissively to anything he might choose to do or say,

*Held*, STREET, J., dissenting, that this conduct and the cumulation of circumstances detailed in the evidence amounted to matrimonial cruelty, although no bodily violence was inflicted; and the wife was justified in leaving her husband, and was entitled to alimony.

Judgment of BOYD, C., affirmed.

*King*, K.C., for plaintiff. *Watson*, K.C., for defendant

Boyd, C.]

REX v. PHILLIPS.

March 16.

*Prohibition—Conspiracy—Particulars—Preliminary investigation before magistrate—Scope of enquiry.*

Prohibition will not lie unless there is a lack of jurisdiction in the judicial officer or Court dealing with the proceedings sought to be prohibited.

The defendant having been arrested and brought before a police magistrate charged with conspiracy under s. 394 of the Criminal Code objected to the sufficiency of the charge and asked for particulars of the deceit, etc., with dates and names. The magistrate overruled the objection and refused the particulars on the ground that the proceeding before him was an investigation.

On an application to the High Court for prohibition,

*Held*, that the magistrate having jurisdiction over the offence in regard to which he could compel the attendance of the accused for the purpose of preliminary enquiry in order to form an opinion as to whether the evidence was sufficient to put him on his trial he should not be fettered in the proceedings before him by having limitations imposed by means of particulars which necessarily restrict the enquiry, but the whole range of relevant facts left him to be availed of at his discretion.

*J. E. Jones*, for the motion.