

1895.
November 5.

PIERIS v. MAGRIDA FERNANDO *et al.*

P. C., Colombo, 38,081.

Ordinance No. 5 of 1889—Keeping a brothel—Evidence.

In a prosecution under Ordinance No. 5 of 1889, for keeping a brothel, it was proved that a number of women occupied the place alleged to be a brothel, and that men of all sorts visited it both during the day and by night, and that spirits were drunk on the premises, and that there were fights among the people resorting thereto ; but there was no evidence of any act of indecency or fornication.

Held, that the place was not a brothel within the meaning of Ordinance No. 5 of 1889.

A brothel is a place to which persons of both sexes have recourse for the purpose of prostitution.

THE first accused was charged with keeping a brothel, and the second accused with knowingly permitting certain premises, of which he was lessee, to be used as a brothel. They were convicted and sentenced to pay a fine of Rs. 200 each.

They appealed.

Dornhorst, for the first accused, and *Jayawardena*, for the second accused.

Drieberg, for the Crown.

5th November, 1895. WITHERS, J.—

1896.

I am unable to support the judgment of the Magistrate. He WITHERS, J. has convicted the first accused in this case of keeping a brothel, and the second accused as a tenant for permitting the premises to be used as a brothel.

In the case of *Singleton v. Ellison*, reported this year, 1895, in *L. R., vol. I., Q. B., p. 607*, it is said that the word brothel has a well-known legal acceptation. It applies to a place to which persons of both sexes have recourse for the purpose of prostitution. Not a single act of indecency or fornication is spoken to by any of the witnesses as having occurred in this house, which is said to be used as a brothel.

A number of women occupy it and men of all sorts visited it both by day and by night. Spirits appear to be drunk on the premises, and fights are said to take place there, and the neighbours naturally regard the place as one to be put down.

It must be a great nuisance to decent people, but the charge does not relate in any way to the offence of keeping a brothel. There is no evidence that it is a brothel. The conviction of the accused must therefore be set aside, and the accused acquitted and discharged.
