Present: Mr. Justice Wood Renton.

KEEGEL *v.* ASSEN LEBBE.

P. C., Kandy, 5,725.

1906.
June 12

Intermeddling with suitors—Accosting witnesses—Contempt of Court—Ordinance No. 11 of 1894, s. 5.

After a witness had given evidence the appellant accosted the witness and asked her why she did not give her evidence in the way he had told her, and why she had made a certain admission to Court. The appellant further pointed out to the witness that she had got herself into trouble and would be fined by the Magistrate.

Held, that the appellant was guilty of an offence under section 5 of Ordinance No. 11 of 1894, which enacts that "any person who, without lawful excuse, accosts or attempts by words, signs, or otherwise to meddle with any suitor or other person having business in any Court, shall be guilty of an offence and be liable on conviction to be punished with a fine not exceeding one hundred rupees."

Narayanaswamy v. Deogu (2 *N. L. R.* 81), and *Mesu v. Karunaratne* (9 *N. L. R.* 146) referred to.

Wood Renton J.—Section 5 of Ordinance No. 11 of 1894 is a part of the living law of the Colony.

APPEAL from a conviction under section 5 of Ordinance No. 11 of 1894.

The facts and arguments sufficiently appear in the judgment.

Balasingham, for accused, appellant.

C. M. Fernando C.C., for the Crown.

(1) (1896) 2 *N. L. R.* 81.

1906. *June* 12.

12th June, 1906. WOOD RENTON J.—

In this case the Police Magistrate of Kandy has convicted the appellant under section 5 of Ordinance No. 11 of 1894, which provides for the punishment of intermeddlers with suitors in Courts of Justice.

In so far as the facts are concerned, I accept the finding of the Magistrate; and the case therefore stands thus. After a woman, Wellatchi, had given her evidence in the Kandy Police Court she was accosted by the two accused, if not on the verandah of the Court itself at least in its precincts. The first accused asked her why she did not give her evidence in the way he had told her and why she had made a certain admission to the Court. He then proceeded to point out that she had now got herself into trouble and would be fined by the Magistrate. While he was making these observations the second accused was close by, expessing approval of what his companion was saying. The question I have to decide is whether people who act in that way have brought themselves within the terms of section 5 of Ordinance No. 11 of 1894, which prohibits any person from accosting or otherwise meddling with any suitor or other person having business in any Court without lawful excuse.

Mr. Balasingham has urged me to hold that the facts do not come within the section I have quoted on several grounds. He has called my attention to an observation made by Mr. Justice Wendt in the case of *Mesu v. Karunaratne* (1) to the effect that section 5 is so vaguely worded that it has practically been a dead-letter. There can be no doubt that section 5 is most loosely expressed. Mr. Justice Lawrie in the case of *Narayanaswamy v. Deogu* (2) has pointed out, with great force and humour, a variety of cases in which it can find no application, and it is to this aspect of the question that Wendt J. in the observations I referred to alludes. But the section is after all a part of the living law of the Colony, and I think it becomes one's duty in every prosecution which may be instituted under it to see whether it covers the facts, altogether irrespective of the difficulties to which in cases not before the Court it may give rise.

Mr. Balasingham argued, in the second place, that the operation of section 5 is excluded here inasmuch as apparently the interference on which the prosecution is based did not take place in the Court itself or until after the witness had completed her evidence. In the decision of Mr. Justice Lawrie to which I have already referred that learned Judge expressed the opinion that the section in question applied only to inteference exercised in the Court itself and while the witness was in the box. It appears to me with great deference

(1) (1906) 9 *N. L. R.* 146. (2) (1896) 2 *N. L. R.* 81.

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WOOD RENTON, J.

that to interpret this section in this manner would be to make it practically void, for we all know that it is in the verandahs and precincts of Courts of Justice that professional touts ply their mischievous trade. There are quite intelligible and wholesome reasons which make them chary of carrying on that kind of traffic under the eye of the Court itself. If the Touting Ordinance is difficult of application, the law as to contempt of Court is quite simple and close at hand. I am unable to accept the view which Mr. Justice Lawrie suggested. I am equally unable to confine the application of this section to cases where either the witness has not yet given evidence or the case has been disposed of. Each case must be decided on its own merits, and the question will usually be one of degree.

In regard to the punishment, I entirely concur in the view taken by the Police Magistrate. It is impossible to interpret the language of which the first accused made use, with the approval of the second accused in any other sense than as a direct suggestion to the witness that she should have given false evidence. If the terms of the law had permitted me to do so, I should have been disposed to alter the sentence to one of imprisonment.

The appeal is dismissed.