

Present : De Sampayo J.

1921.

KHAN v. PERERA.

792—P. C. Kalutara, 58,532.

Ordinance No. 35 of 1917—Intermeddling with suitors—Inducing a witness to give evidence in a particular way—Is witness a person having business in Court ?

A person who approaches a witness who has come to give evidence in a Court and tries to influence him to give evidence in a particular way is liable to be prosecuted under section 5 of Ordinance No. 35 of 1917.

THE facts appear from the judgment.

R. L. Pereira, for appellant.

September 1, 1921. DE SAMPAYO J.—

The accused has been charged under Ordinance No. 35 of 1917 with having accosted one Edmund, who had come to Court to give evidence in connection with a case to be tried on that day. It appears that accused's brother, Kaitan, was charged by a cattle seizer with having obstructed him in the discharge of his duties by preventing the seizure of an animal. That case was on for trial on June 6 last. The man Edmund, though not summoned as a witness, had come to give evidence for the prosecution. The accused had also come as a witness in some other case, but no doubt he knew about the case against his brother fixed for the same day. The charge against him is that he accosted Edmund and took him to a side and told him to say, when he gave evidence, that the animal was seized inside Kaitan's garden and not on the road, meaning thereby that the cattle seizer had no right to seize the animal in such circumstances. The accused denies that he spoke to Edmund or tried to induce him to give false evidence. The Magistrate heard the case fully, and found that the incident happened as stated by the prosecution. It is urged, in the first place, on behalf of the accused, that this is not a case which comes under the Ordinance No. 35 of 1917, inasmuch as the Ordinance is meant to deal with intermeddlers with suitors, and did not cover a case of this nature. But the actual provision of section 5 is : " Any person who, without proper excuse, the proof whereof shall lie on him, accosts, or attempts by words, signs, or otherwise to meddle with, any suitor or other person having business, actual or prospective, in any Court, with respect to his suit or business, shall be guilty of an offence," &c. I am not sure that a witness may not be a person having business in Court. Considering the object of the whole Ordinance, I think a

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witness does come under the description of a person having business in Court. There is no case on this point cited to me, but on first impression I am of opinion that a person who approaches a witness and tries to influence him to give a particular piece of evidence is liable to be prosecuted under the section in question. If I am right in thinking that a witness who comes to give evidence has business in Court, then the intermeddling in this case was in respect of the business, because the accused is alleged to have attempted to influence Edmund with regard to his evidence. In the next place, it is urged that the evidence of the witnesses ought not to be accepted, and that the whole case is without any substance, and the Police Magistrate was wrong in convicting the accused on the evidence. I am not prepared to hold that the evidence of Edmund and the other witnesses is not sufficient to sustain the conviction. For these reasons the appeal is dismissed.

Appeal dismissed.

