

1932

Present : Driberg J.

LEEMBRUGGEN v. SILVA.

27—M.C. Colombo, 10,053.

Vagrants Ordinance—Soliciting in a public place—Illicit intercourse—Ordinance No. 4 of 1841, s. 7 (1) (a).

The expression "illicit" in section 7 (1) (a) of the Vagrants Ordinance means irregular and improper according to the ordinary standard of morals.

A PPEAL from a conviction by the Municipal Magistrate of Colombo.

Iyer, for accused, appellant.

Wendt, C.C., for respondent.

May 31, 1932. DRIEBERG J.—

The evidence is that the respondent and another Police Inspector who were in civil clothes halted their car at night in Norris Canal road; the appellant came up to them and offered to get them two women for Rs. 5 each and he later brought two women to their car. The appellant was convicted under section 7 (1) (a) of the Vagrants Ordinance, No. 4 of 1841, which is an amendment effected by Ordinance No. 21 of 1919, of having solicited the respondent in a public place for the purpose of an act of illicit intercourse. He appeals from this conviction.

The conviction was questioned on several grounds but the only one I need deal with is this. Mr. Iyer contended that the word "illicit" means "illegal, or prohibited by law" and that the only sexual intercourse prohibited by law is incest and intercourse with girls below a certain age and that this was not the case here. But the word "illicit" means more than this. It is defined in the Oxford Dictionary as "not authorized or allowed, improper, irregular, especially not sanctioned by law or custom, unlawful, forbidden". The word occurs in an Ordinance the declared object of which is to amend and settle certain enactments relating to public morals and the protection of women and girls. The word "illicit" used in this connection rightly describes sexual intercourse of men with women picked up in the streets, for this is irregular and improper according to the ordinary standard of morals.

The word is used in the same sense in section 357 of the Penal Code, which deals with the offence of kidnapping a woman in order to force or seduce her to illicit intercourse. It has been held in India that the words in the corresponding section 306 of the Indian Penal Code meant merely sexual intercourse between a man and a woman who are not husband and wife (*Mahbub* (1907) 27 A. W. N. 199). The report is not available. A reference to this decision appears in *Ratnalal's Law of Crimes*, 10th edition, p. 757.

The appeal is dismissed.

Affirmed.