*Present:* Schneider A.J.

1919.

SILVA *v.* SUPPU.

*223—M. C. Colombo, 732.*

*Brothel—Ordinance No. 5 of 1889.*

A brothel is a house run by a man usually called a "brothel keeper," to which men resorted for purposes of prostitution with women who were to be found in the house.

THE facts are set out in the judgment.

*A. St. V. Jayawardene*, for accused, appellant.

*Grenier, C.C.*, for respondent.

May 21, 1919. SCHNEIDER A.J.—

In his judgment the Magistrate says he has no doubt whatever of the facts deposed to by the witnesses for the prosecution. I see no reason for not accepting the findings of the Magistrate on the facts. The facts proved were as follows.

The accused-appellant is the lessee of the premises in question, No. 108, Chekku Street, and lives there. The premises consist of twelve small rooms partitioned by walls or planks. In consequence of information received, a police constable was set to watch the premises. He saw every night, from 6 to 11 P.M., Sinhalese, Tamils, and Moormen going into the house and coming out after an interval, and the accused standing at the entrance speaking to those who entered, from whom he received money. This constable says that he knew four of the women who were found in the house as common prostitutes. Upon this constable reporting what he saw, an Inspector of Police with some policemen raided the house one day at about 10 P.M. They found some men and eight women. Two of these men who were found in two of the rooms in company with two of the women admitted that they had come there for purposes of prostitution, and that the accused had received money from them. At the trial they gave evidence to this effect. The other women were in other parts of the house talking to other men.

At the trial some men gave evidence to the effect that they kept some of the women found in the house as their mistresses. These men were mere "pimps," as the Magistrate concludes. In only a few of the rooms were there any signs of occupation, such as pots and pans for cooking; the rest of the rooms were quite bare, as if meant to be occupied for immoral purposes.

1919.

ENNIS A.C.J.

*Silva v. Suppu*

The accused was charged and convicted under section 1 (1) of the Ordinance No. 5 of 1889, which makes it an offence for any person to " keep or manage or act or assist in the management of a brothel. "

On appeal it was submitted that the conviction was bad for two reasons. First, because the evidence failed to establish that the place was a " brothel " within the meaning of the Ordinance, a " brothel " being a place resorted to by persons of both sexes for the purpose of prostitution. " In support of this proposition, *Singleton v. Ellison* [1] and *Pieris v. Fernando*,[2] and the words " or for the purpose of habitual prostitution " in sub-section (2) of section 1 of Ordinance No. 5 of 1889 were cited. In the view I take of the facts in the case, this point does not actually arise. I hold that the evidence proves that the house in question was run by the accused, so that women who were prostitutes had access to it for the purpose of prostitution, and men visited it, paying the accused a consideration, and were allowed access to the women for purposes of prostitution.

This view of the facts satisfies the acceptation of the term " brothel " according to the English law. But if it were really necessary to define a brothel for the purposes of our own law, I should feel inclined to give that term a meaning consistent with local ideas and conditions. Here we have no immoral women walking the streets picking up men and resorting to some house for the purpose of prostitution. I have always understood the commonly accepted meaning of " brothel " locally to be a house run by a man usually called a " brothel keeper, " to which men resorted for purposes of prostitution with women who were to be found in the house. I would hold that it is this meaning which our Legislature meant the word " brothel " to have in local Ordinances, despite the fact that the language of our Ordinances appears to have been borrowed from the English Criminal Law Amendment Act, and the words in sub-section (2) would appear to draw a distinction between a " brothel " and a place resorted to " for the purpose of habitual prostitution. "

The second reason was said to be that the women were tenants of the rooms, and even granting that they admitted men for the purpose of prostitution, the whole house or any one of the rooms would not be a brothel within the meaning of the law. In support of this argument *Regina v. Stannard* [3] was cited. Here, again, the argument fails on the facts as I accept them. The women were not, in fact, tenants. But even granting them to be tenants, the accused is proved to be residing in the premises, and to have control over those seeking admission so as to be able to levy a charge for such admission. This fact distinguishes the present from the case cited. I therefore dismiss the appeal.

*Appeal dismissed.*

[1] *(1895) 1 Q. B. D. 607.*

[2] *(1895) 1 N. L. R. 212.*

[3] *(1863) 9 L. T. R. (N.S.) 428 ; (1864) L. T. R. Mag. Cases 63.*