

1921.

Present : Schneider A.J.

APPUHAMY *v.* EMANIS *et al.*

638-639—M. C. Colombo, 3,382.

*Ordinance No. 21 of 1919, s. 9—Living on the earnings of prostitution—  
Presumption—Single act.*

To sustain a conviction of knowingly living on the earnings of prostitution under section 9(1)(a) of Ordinance No. 21 of 1919, proof that, on a single occasion, accused brought a woman for prostitution was held not sufficient.

“There is no evidence which would justify the raising of the presumption created by sub-section (2), because there is no evidence in this case that the woman was a prostitute, nor is there any evidence to show that the accused lived wholly or in part on the earnings of prostitution.”

THE facts appear from the judgment.

*De Jong*, for the appellant.

July 8, 1921. SCHNEIDER A.J.—

The evidence which the learned Magistrate has accepted is that a Police Constable saw the accused standing by a “passenger,” who was in a rickshaw, which was stopped by the gate of the Hunupitiya park; that the accused went away, and within a few minutes returned to the park with a woman, with whom the “passenger” had sexual intercourse while the accused stood on a side. Upon this evidence the Magistrate convicted the accused of knowingly living on the earnings of prostitution, an offence punishable under section 9 (1) (a) of Part I. of the Criminal Law Amendment Ordinance, No. 21 of 1919. The Magistrate states in his judgment that, in view of the provisions of section 9 (2) of that Ordinance, the accused must be deemed to be knowingly living on the earnings of prostitution. There is no evidence which would justify the raising of the presumption created by that sub-section, because there is no evidence in this case that the woman was a prostitute, nor is there any evidence to show that the accused lived wholly or in part on the earnings of prostitution. A single isolated fact, such as is spoken to by the Police Constable, is not sufficient to sustain a conviction under the provisions of the Ordinance under which the accused has been convicted.

The Court therefore, set aside the conviction, and acquit the accused.

*Accused acquitted.*