

Present : De Sampayo J.

1921.

SILVA v. SILVA et al.

535-536—P. C. Balapitiya, 49,361.

Public Performances Ordinance, No. 7 of 1912—Performance at a private house—No charge for admission.

In connection with the festivities for the Sinhalese New Year, the second accused organized the performance of a play at the house of the fourth accused. The performers were mostly children, and the people present were their own relatives and friends, with some strangers, who were attracted to the spot. No charge was made for admission, or no tickets were issued. The dancers honoured the principal spectators by dancing before them individually and received presents.

Held, that this was not a public performance within the meaning of the Ordinance No. 7 of 1912.

THE facts appear from the judgment.

Amarasekera, for second and fourth accused, appellants.

June 10, 1921. DE SAMPAYO J.—

This purports to be a prosecution under the Public Performances Ordinance, No. 7 of 1912. The charge is that the accused "carried on a comedy in the house of James without obtaining a license." There is no such offence created by the Ordinance. What the Ordinance does is to empower the Governor in Council to make rules for the regulation of public performances, and to penalize the infringement of any rule so made. No rule of any kind is shown to have been made by the Governor, nor does the charge allege the infringement of any rule. The whole proceedings are without any legal foundation. I might send the record back for proper proceedings to be taken afresh, if I were persuaded that the facts justified this prosecution. The charge appears to have been instituted at the instance of a neighbour who bears ill-feelings towards the accused, and there has obviously been a great deal of exaggeration in the case. The facts appear to be that on April 15 last, in connection with the festivities for the Sinhalese New Year, the second accused organized the performance of a play at the house of the fourth accused. The accused says that the performers were mostly children, and the people present were their own relatives and friends. This is substantially true. The place of performance was the verandah of the house, and it is not unlikely that some people were, as usual, attracted to the spot. There was no charge made

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admission, or any tickets issued. The only payment was *adau* paid by some to the dancers, that is to say, the dancers honoured the principal spectators by dancing before them individually and received *adau* or presents. I do not think that the affair amounted to a public performance within the meaning of the Ordinance. No harm arose from it and no inconvenience was caused to any one, but on the contrary some good was possibly done by affording the villagers some innocent amusement during the New Year festivities. This wholly unnecessary prosecution was apparently due to the malice of the informant and the officiousness of the headman who made the report to Court. It is to be hoped that the headman has ordinarily more serious duties to perform than taking the valuable time of the Court by such frivolous complaints as this.

The convictions are set aside.

Set aside.

