

1938

*Present : Maartensz J.*SWAMINATHAN *v.* SUPPIAH.253—*P. C. Mullaittivu, 14,530.*

*Accosting proctor—Meaning of expression “other person”—Ordinance No. 11 of 1894, s. 5.*

A person who without legal excuse accosts a Proctor about his business or prospective business can be convicted of an offence under section 5 of Ordinance No. 11 of 1894.

**A** PPEAL from a conviction by the Police Magistrate of Mullaittivu.

*N. Nadarajah*, for accused, appellant.

No appearance for complainant, respondent.

June 22, 1938. MAARTENSZ J.—

The accused appellant was convicted under section 5 of Ordinance No. 11 of 1894 as amended by section 3 of Ordinance No. 35 of 1917 of accosting Mr. V. T. Swaminather, Proctor, a person having prospective business in the Police Court of Mullaittivu with respect to his business therein.

It appears from the evidence that at the time accused accosted Mr. Swaminather a man named Kandapillai was said to have caused hurt to Kanther Muttar and Kanther Muttar to have caused hurt to Kanthapillai.

Kanthapillai's father, Sinnatamby, asked Mr. Swaminather to file a case for Kanthapillai and asked him to accept a small fee. He went away saying he could not pay Mr. Swaminather's "normal" fee. Immediately after he left the accused came in and said: "Some people came here—we sent because we are appearing on the other side. Have they retained you or not?"

The accused's defence is that he spoke to Mr. Swaminather at the request of Sinnamma, sister of Sinnatamby, who told him that she and Sinnatamby had been to Mr. Samuel, another Proctor, and found he had been retained by the other side.

It was contended in appeal that section 5 of the Ordinance did not apply to a case where a legal practitioner is spoken to in his professional capacity. It was argued that section 2 of the Ordinance deals with the offences in which a legal practitioner is concerned. I do not think I can accede to this argument. The offences punishable under section 2 of the Ordinance are of an entirely different character to the offence penalized by section 5.

The expression "other person" is wide enough to include a legal practitioner and I see no reason why a person who without legal excuse accosts a Proctor about his business or prospective business should not be convicted and punished under section 5.

The accused's statement that he was asked by Sinnamma to speak to Mr. Swaminather has not been corroborated by her or her brother, Sinnatamby. He has therefore not proved that he had a lawful excuse for speaking to Mr. Swaminather.

The appeal must therefore be dismissed.

*Appeal dismissed.*

