

1972

Present : H. N. G. Fernando, C.J.

U. THILAKASIRI, Appellant, and INSPECTOR OF POLICE,  
KALUTARA SOUTH, Respondent

S. C. 796/69—M. C. Kalutara, 38725

*Penal Code—Section 488—Charge of misconduct in public by a drunken person—  
“ Public place ”.*

A Government Hospital is not a public place within the meaning of section 488 of the Penal Code.

**A**PPPEAL from a judgment of the Magistrate's Court, Kalutara.

*A. C. de Zoysa*, with *Justin Perera*, for the accused-appellant.

*Tivanka Wickremasinghe*, State Counsel, for the Attorney-General.

July 13, 1972. H. N. G. FERNANDO, C.J.—

The accused in this case was convicted under Section 488 of the Penal Code of having, while in a state of intoxication, conducted himself in such a manner as to cause annoyance to other persons, in a public place to wit, the Nagoda Hospital. I greatly regret that owing to the loss of my brief and other circumstances, I have so long delayed to deal with this appeal.

According to the evidence, the accused had been in a state of intoxication and was using filthy language within the precincts of the Hospital. Had he been found in that condition in a Ward in that Hospital, there may have been some little justification for the opinion that the Ward is a public place. In this case however, the misconduct of the accused took place somewhere near the Hospital kitchen and on the verandah outside the room of one of the Hospital Officers. Learned Counsel appearing for the prosecution has referred me to the case of *Van Cuylenburg (A. S. P. Uva) v. Weerasekera*<sup>1</sup> 39 C. L. W. p. 26, which in turn cites a judgment of Jayewardene J. in the unreported case of *Muhandiram Tissa v. Charles Appu*, S. C. 94—P. C. Hambantota 6911 (S. C. Minutes of 22nd February 1926), holding that a Government Hospital is not a public place. I am content to follow that judgment.

The appeal is allowed and the accused is acquitted.

*Appeal allowed.*

<sup>1</sup> (1948) 39 C. L. W. 26.