

Present : Pereira J.

PERIS v. GUNESKERA.

672—P. C. Colombo, 47,815.

Tout—Intermeddling with suitors—" Suitor " defined—Lawful excuse—Burden of proof.

The word " suitor " as used in section 5 of Ordinance No. 11 of 1894 (an Ordinance to suppress intermeddling with suitors in Courts of justice) means a party to a suit in Court who for the time being has business in Court.

The burden of proving that a party accused had " lawful excuse " for accosting a suitor is on the party accused.

THE facts appear from the judgment.

Tiaseverasinghe, for accused, appellant.—The accused did not " accost a suitor " within the meaning of the Ordinance. Even according to the case for the prosecution, the accused is said to have asked Kutti to settle the case, and told him that Tami " would place rowdies on the road." It is not every conversation between a suitor and another that amounts to accosting. There was nothing improper in asking accused to settle the case, or in telling him that Tami would act in a particular way. Counsel cited *Narananaswamy v. Diogu*,¹ *Keegel v. Asana Marakar et al.*,² *Mesu v. Karunaratne*.³

Counsel argued on the facts.

Cur. adv. vult.

September 24, 1914. PEREIRA J.—

The accused has been convicted, under section 5 of Ordinance No. 11 of 1894, of having, without lawful excuse, accosted a suitor. The term " suitor " has not been defined by the Ordinance, but it is manifest from the words that, in the section, follow this expression, namely, " or other person having business in Court," that the Legislature intended that a suitor was himself a person having business in Court. Of course, one of the ordinary meanings of the term " suitor " is a party to a suit in a Court of justice, and the suitor contemplated in the section is such a party who for the time being has business in Court. On September 3, 1914, the witness Kutti was a suitor having business in the Police Court of Colombo,

¹ 2 N. L. R. 81.

² (1912) 16 N. L. R. 69.

³ (1906) 9 N. L. R. 146.

1914.

PEREIRA J.

*Peris v.
Gunasekera*

as he had prosecuted one Tami for some offence, and he was in the Court in connection with the prosecution. He was in the witness shed when the accused went up to him and asked him to settle the case. Kutti refused, and then the accused, with the object obviously of frightening Kutti, told him that if he did not settle the case Tami would "place rowdies on the road." Clearly, the conduct of the accused was tantamount to "accosting" Kutti, and in view of section 106 of the Evidence Ordinance the burden of proving that he had lawful excuse for his conduct was on the accused. He pleaded no excuse of what he had done, but denied that he had acted as stated above. He stated that Tami was his nephew, and that all he did was to ask Kutti whether Tami had left the Court. This statement is not believed by the Magistrate, and I have little doubt that it is false.

I affirm the conviction and sentence.

Affirmed.

