

1950

Present : Nagalingam J.

ABEYKOON *et al.*, Appellants, and KULATUNGA (P. S. 193),
Respondent

S. C. 413—414—M. M. C. Kandy, 2,111

Brothels Ordinance (Cap. 25)—Prostitute employed in a brothel—Does she assist in the management of the brothel?—Section 2 (a).

A woman who is, or is kept, in a brothel for purposes of consorting with men cannot be said to assist in the management of the brothel within the meaning of section 2 (a) of the Brothels Ordinance.

¹ (1944) 1 A. E. R. 270.

A PPEAL from a judgment of the Municipal Magistrate's Court, Kandy.

C. Jayawickreme, for the accused appellants.

S. S. Wijesinha, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

July 10, 1950. NAGALINGAM J.—

The two appellants were charged, the 1st with having managed a brothel and the 2nd with having assisted the 1st in the management of it, offences punishable under section 2 (a) of Cap. 25 of the Legislative Enactments. After trial they were convicted and the 1st accused was sentenced to pay a fine of Rs. 500 and the 2nd accused a fine of Rs. 250. There is ample evidence in the case which supports the finding of the learned Magistrate in regard to the 1st accused that she managed a brothel.

The case against the 2nd accused, however, stands on a different footing. The only evidence against her is that she was seen by the Police Inspector who gave evidence in this case hugging a man who himself gave evidence and stated that the 2nd accused was a woman who had been "given to him by the 1st accused" on his paying the latter a sum of Rs. 5. There is no other evidence against her.

The question that has been raised on her behalf on appeal is whether a woman who is or is kept in a brothel for purposes of consorting with men can be said to assist in the management of the brothel. The term "management" involves the idea of administration or control. A hotel keeper may manage the business of the hotel but can it be said that a chef or waiter employed by him assists him in the management of the hotel? I do not think so. A horse-rider may be said to manage a frisky horse but can it be said that the horse itself is assisting the rider in its management. The answer to this question too must be in the negative. If, however, the prosecution had been able to establish that the 2nd accused did perform any act in regard to the administration or control of the brothel, a case may be said to have been made out against her; but the mere fact that she surrendered her flesh to enable persons who resorted to that place to gratify their sexual appetite cannot be regarded as indicating that she assisted in the management of the brothel.

I do not therefore think that the charge against the 2nd accused has been established. I set aside the conviction and acquit her. The appeal of the 1st accused is dismissed.

Appeal of 1st accused dismissed.

Appeal of 2nd accused allowed.