

GUNAWARDENA v. MARTHINO.

P. C., Kandy, 6,564.

1897.
November 25.

Ordinance No. 12 of 1891, ss. 27 and 47—Keeper of tavern.

The "keeper of a tavern," under section 27 of the Ordinance No. 12 of 1891, is the *de facto* keeper of it, as distinguished from the man who holds a license.

COMPLAINANT, a police sergeant, charged the accused, as keeper of the tavern at Getambe, with receiving an umbrella of the value of Rs. 2 in pledge for 37 cents worth of arrack, contrary to section 27 of the Ordinance No. 12 of 1891.

The Police Magistrate acquitted the accused on the ground that he was a salesman and not the keeper of the tavern.

The Attorney-General appealed against the Police Magistrate's order.

Templer, C.C., for appellant.

Browne, for respondent.

25th November, 1897. LAWRIE, A.C.J.—

I think the acquittal is wrong. I have no hesitation in holding that the keeper of a tavern is the *de facto* keeper of it, as distinguished from the man who holds a license. The accused is convicted of an offence punishable under Ordinance No. 12 of 1891, sections 27 and 47, inasmuch as he is the keeper of the tavern

1897.
November 25.
LAWRIE,
A.C.J.

employed by the licensed person to sell liquor (including the produce of the cocoanut palm, &c.) at the tavern at Getambe, he did on the 19th September, 1897, take and receive from Sinnaya Kangany an umbrella in pledge, barter, or exchange for $37\frac{1}{2}$ cents worth of arrack, and he sentenced to pay a fine of Rs. 10, or in default of payment to be imprisoned for fourteen days.

