

1953

*Present : Gratiaen J.*

LAMBERT ALWIS, Appellant, and S. D. RATNAYAKE,  
Respondent

*S. C. 1,161—M. C. Kurunegala, 7,131*

*Hotel Keepers Protection Ordinance (Cap. 30)—Prosecution thereunder—A necessary ingredient.*

In a prosecution<sup>o</sup> for failure to discharge a debt due to a hotel keeper, the complainant must prove, under section 3 of the Hotel Keepers Protection Ordinance, not only that a copy of the Ordinance was exhibited in the hotel but also that it was exhibited in some conspicuous place therein.

When a monthly lodger at a hotel becomes liable to be sued in a civil court for the recovery of what is payable by him, he is not necessarily liable to conviction under the Hotel Keepers Protection Ordinance.

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

*H. V. Perera, Q.C.*, with *A. C. Gooneratne* and *K. Sivasubramaniam*, for the accused appellant.

*T. B. Dissanayake*, for the complainant respondent.

July 8, 1953. GRATIAEN J.—

This is an appeal from a conviction under the Hotel Keepers Protection Ordinance (Cap. 30). It is clear from the facts that the appellant had during the relevant period been a lodger in the respondent's hotel, the terms being that the appellant was to pay his bill at the end of each month of residence. There is no doubt that, apart from any controversy as to the amount payable by the appellant, he has not in fact paid what he owed for the latter period of his residence in the hotel. In the result he became liable to be sued in a civil court for the recovery of what was payable by him. This does not mean that he is necessarily liable to conviction under the Hotel Keepers Protection Ordinance. It is idle to suggest that he did not "give notice that he would require credit" within the meaning of section 2 (1) of the Ordinance, having regard to the fact that the terms arranged between himself and the hotel keeper involved the granting of credit. Apart from this objection, Mr. Perera points out that section 3 requires as a condition to liability to conviction under the Ordinance that the hotel keeper must exhibit a copy of the Ordinance "in some conspicuous place". The complainant certainly states that he did exhibit a copy of the Ordinance in his hotel, but he nowhere states where the copy was in fact exhibited. In that state of things it is impossible for a Court to hold that the copy of the Ordinance had been exhibited sufficiently conspicuously to attract the attention of customers.

I therefore set aside the conviction and make order acquitting the accused.

*Appeal allowed.*

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