

A

REGINA

v.

SATYA NARAYAN SAMI

[SUPREME COURT, Tuivaga, C. J.—19 June, 1986]

B

Revisional Jurisdiction

(A Betting Shop—can be described as public place within the meaning of the Minor Offences Act (Cap. 18) s.2 (b)(ii))

C

The respondent was acquitted of a charge of being drunk and disorderly contrary to s.4 of the Minor Offences Act (Cap. 18). Particulars of the charge were that on 15 May he was drunk and disorderly in a public place viz. in Maan Singh's Betting Shop at Raojibhai Patel Street.

D

The acquittal followed the ruling by the Magistrate that the shop in question was not a public place within the meaning of s.4 of the Penal Code and therefore the prosecution had failed to prove the ingredients of the offence.

The review was sought by the complaint on the question, inter alia, as to whether the betting shop in question was a "public place" as defined in s.2 of the Minor Offences Act, which is in identical terms with s.4 of the Penal Code.

E

"Public Place" (so far as material) is defined thus in s.2 (b)(ii) of the Minor Offences Act:

"2(b)(ii) any place or building of public resort, other than a dwelling house to which for the time being the public have or are permitted to have access whether on payment or otherwise."

F

The learned Judge of revision accepted as a matter of common knowledge that Mann Singh's Betting Shop was a place to which the public have access; and further that the public have or are permitted access to that shop such as to render it a "public place" within the meaning of s.2 (supra).

Accordingly it should have been held that there was sufficient evidence on the issue of "public place" to convict respondent.

G

Held: In the circumstances of this case, the verdict of acquittal should be allowed to stand.

TUIVAGA, C. J.

Order on revision

A

On 17th May 1985 the respondent was charged with being drunk and disorderly, contrary to section 4 of the Minor Offences Act (Cap. 18).

The particulars of the offence alleged against him are that on 15th May he was drunk and disorderly in a public place namely, in Maan Singh's Betting Shop at Raojibhai Patel Street in Suva.

B

In acquitting respondent of the charge the trial Magistrate held that the betting shop in question is not a public place as defined in section 4 of the Penal Code and that the prosecution have failed to prove the ingredients of the offence charged.

This review is sought by the complainant mainly on the question as to whether or not the betting shop in question is a public place as defined in section 2 of the Minor Offences Act. The section is in identical terms with the definition in section 4 of the Penal Code. This review is not concerned with the verdict of acquittal of the respondent but only with the question of law as stated.

C

So far as material for the purpose of the present review "public place" is defined by section 2(b)(ii) of the Minor Offences Act as follows:

"2(b)(ii) any place or building of public resort, other than a dwelling house to which for the time being the public have or are permitted to have access whether on payment or otherwise."

D

I think it is clear as a matter of common knowledge that Maan Singh's Betting Shop is a place to which the public have access. That much is plain as a matter of fact. I think it is also plain as a matter of law that a trial court may take judicial notice of the fact that the public have or are permitted to have access to Maan Singh's Betting Shop such as to render such a shop a "public place" within the definition in section 2 of the Minor Offences Act.

E

I am satisfied therefore that to that extent and to the extent that the trial Court held that there was insufficient evidence to convict respondent on the charges preferred against him, the trial court had erred in its conclusions in this case.

As already noted the purpose of this review of the case is merely to clarify the legal position as to whether the betting shop in question is a public place or not. Hence the order of the trial Court acquitting respondent will stand.

F