

Judicial Extract

A friend working on an ongoing case representing a beer bar girls' union in Mumbai sent us this very interesting case from the 1970s about whether cabaret shows were obscene. We have extracted portions from the First Information Report (FIR) as well as the written statement of the defendant from the case, as it touches on a number of fascinating issues of what constitutes a public space, what amounts to an 'obscene act', the performative nature of legal documents and the modes through which differently constituted legal subjects insert into legal narratives, relying on and yet subverting the language of law. This case opens out, in its most ironic mode, the homonymous world of the Bare Act.
– Lawrence Liang

**Extracts from State of Maharashtra vs. Joyce Zee alias Temiko
Bombay Law Reporter, Vol. LXXVII, p. 218**

On that day, information about the obscene cabaret dance at Blue Nile was received by the vigilance branch of Greater Bombay, C.I.D.

P.W.4 SGSA Desai, and P.W.5 S.I. Patil of that branch decided to attend the cabarets. One Doulatrai Kothari, P.W.3 owning a tailoring shop, were taken by them with them. They had reserved five seats in advance and they reached the place at 9:30 PM. They were sitting on table No. 2 facing the stage when the cabaret shows were to be given. They ordered food. The artist was Accused No. 1, Miss. Joyce, also called Temiko. We are concerned with her cabaret show in this case.

The prosecution alleged that Temiko, accused No. 1 was dressed in a transparent gown. She was smoking when she entered the hall accompanied by cabaret music. Spotlight was on her. All other lights were off; she danced for a few minutes. Then she started moving around the table shouting aloud. She nudged various customers at their backside and blew smoke on their heads. She approached the customers in the dance hall of Blue Nile to remove her clothes. Some customers obliged till she was left only with transparent panties. She then lay fatly on the floor making erotic moves with her legs and body suggesting sexual acts. She made strokes against the floor and uttered cries, which made people get up from their chair and look at her.

Subsequently she put on a transparent gown, which left her left breasts open to view. She shouted to the customers to suck them. She further put her nipples in the mouth of some customers, she was also brushing people with her breasts. The cabaret lasted till 12-30 AM. It is said that at the end of the show, SG SI Desai was annoyed at the show and approached Inspector Daxinar.

Inspector Daxinar contacted the clerk at the counter and obtained names of Christine and Temiko. Accused No. 2 one of the proprietors was present. SI Patil took the artistes to the vigilance branch. After completing the investigation, a charge sheet was filed in this case against the four accused.

The four accused pleaded not guilty. Accused No. 1 admitted having performed the show but denied the allegations of obscenities and annoyances. In her statement under sec. 342, she said:

"It is true that I did a cabaret at the Blue Nile between the night of 19-12-1970 and early hours of 20-12-1970. It is not true that I entered the hall in a transparent gown which was upto my hip. It is true that I entered the hall smoking. It is not true that I approached the customers and requested them to remove my clothes one after another. It is not true that except for my panties, I was completely naked. It is not true that I lay on the floor and that I was moving my legs, hands and my body in a typical way or in an erotic manner. I say that in a cabaret such as mine, I had to dance to the rhythm of the music. It is not true that I lay on the ground and was striking it with my body. It is true that people did gather around the floor.

"It is not true that I was striking my breasts in a violent manner. It is not true that I inserted my nipples in the mouth of the customers or I pushed them with breasts or hips, it is true that when I came to the floor, I removed my top gown. It is not true that I opened my brassiere. It is not true that I subsequently put on another gown which was open in front and which showed my breasts. It is not true that I blew smoke on customers and played with their hair. It is not true that some persons in the audience were annoyed. It is not true that nobody called at the show. They were great applause".

She also filed a written statement reiterating what she had said in her statement under sec. 342:

"I was giving the performance of a western dance known as 'Solo' which is a well known performance and during the same dance, I had to bend as low as to be near the ground and rise up again to the tune. I deny having rolled on the ground naked and taken out my brassiere at that time. It is clear that the witnesses have not understood the same as is evident from the statement of Khanna. I say that my performance is very much liked and that there are many who repeatedly come for the show. On the day in question also, my performance was very much appreciated by the audience who called me throughout the show by way of appreciation. There was none in the audience who left in the middle and everyone including the ladies sat through out the show. I have been giving these performances since last three years at various places and am appreciated.

"Assuming for the sake of argument that I did what the witnesses say, I submit that

the performance may not be called obscene so as to deprave and corrupt minds of those who attended the same. They are all adults between 25 and 50. They were mostly educated and widely travelled people and decent people of society. There is hardly any question of corrupting or depraving the minds of such people who come with zest and liking. The question of obscenity, I submit, of a particular thing may be considered not in abstract but in relation to those who had assembled there for the close door performance though it was a public place. I submit that the performance in relation to such elite persons who are mature and culturally developed cannot be called depraving, corrupting and much less annoying. "I submit that I am innocent and pray that I should be acquitted".