

157.

ROYAL COURT
(Assise Criminelle)

22nd September, 1989

Before: The Deputy Bailiff, and
Jurats Blampied, Myles and Orchard.

Attorney General

- v -

David Julien Bisson

The prosecution sought leave to question a Police Officer to establish the fact that certain statements were made by two defence witnesses during the course of two meetings held at defence counsel's offices at which the Police Officer, defence counsel and one or other of the defence witnesses were present. The meetings concerned an alleged criminal conspiracy between certain prosecution witnesses against the accused.

The prosecution wished to question the Police Officer in order to lay the ground for cross-examination of the said defence witnesses and did not seek to rely on the defence witnesses' statements to verify the truth thereof.

Defence counsel's objections that the Police Officer's evidence was inadmissible on the grounds that it would infringe the rule against admitting hearsay evidence and the 'best evidence' rule and that it should be inadmissible on the ground of its prejudicial effect on the accused were overruled by the Court.

J.A. Clyde-Smith the Crown Advocate
Advocate M. St. J. O'Connell for the accused.

JUDGMENT

DEPUTY BAILIFF: The Court is in no doubt that this case fits exactly within the principle cited at paragraph 11-7 of the 43rd edition of Archbold taken from Subramaniam -v- Public Prosecutor (1956) 1 W.L.R. 956, 969 P.C., a Privy Council case which is our ultimate Court of Appeal. We do not agree that the evidence is to be relied upon testimonially because it is not intended to establish any fact narrated by the words.

The other case cited by Mr. O'Connell at paragraph 11-6 was Woodhouse -v- Hall (1981) 72 Cr. App. Rep. 39. That case in the view of the Court supports the prosecution: "The truth of the statements alleged to have been made is not in point"; (and here we adapt the words): "the relevance lies in the fact that such allegations were being made". Accordingly the evidence will be admitted and the Jury can be recalled.

Authorities

Archbold (43rd Edn.): para 11-6: Woodhouse -v- Hall (1981) 72 Cr. App.
R. 39.
para 11-7: Subramaniam -v- Public Prosecutor (1956) 1 W.L.R.
956, 969 P.C.