GNE.118

British Guiana 32, 1961

No. 70 of 1960

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE WEST INDIES FEDERAL SUPREME COURT
APPELLATE JURISDICTION

TERRITORY: British Guiana

B E T W E E N :

SHOUKATALLIE — Appellant

- and -

THE QUEEN — Respondent

C A S E FOR THE APPELLANT

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1. This is an appeal by Special Leave in forma pauperis from a Judgment and Order of the West Indies Federal Supreme Court sitting in its Appellate Jurisdiction in the territory of British Guiana dated the 14th day of September 1960 whereby the said Court dismissed the Appellant's appeal against his conviction and sentence to death on the 3rd day of June 1960 by the Supreme Court of British Guiana sitting in its criminal jurisdiction for the County of Demerara for the offence of Murder. pp 283, 293 — p. 261

2. The principal grounds of appeal are :-

(a) That when the Jury after a long retirement returned and stated that in the words of the Federal Supreme Court, "they could not agree but needed no further direction", the trial Judge nevertheless gave them further directions which, it is submitted, in effect directed them that they had to arrive at a verdict of guilty or not guilty thus making it appear to them that they were not entitled to adhere to their disagreement and thereby interfering with their freedom to disagree if unanimity could not be reached. p. 288, ll. 15-16

(b) That the trial Judge should have released the Jury at 4 p.m. or thereabouts on the 2nd June 1960 and concluded his summing-up on the following day.

(c) That in view of the trial Judge's further directions to the Jury the Federal Supreme Court was wrong in excluding two Affidavits sworn respectively by two members of the Jury in which the two jurors deposed that, in fact, the verdict announced by the foreman of the Jury was not freely arrived at or unanimous.

3. The Appellant (the first accused) was tried and convicted together with his brother Mohamed Ali (the second accused) for the murder on the 10th February 1960 in the County of Demerara of one Rampat also called Peeka. The appeal of the second accused Mohamed Ali was allowed and his conviction and sentence set aside by the Federal Supreme Court on the 14th September, 1960.

p. 292, ll. 31-33

4. The law relating to Murder is the same in British Guiana as in England.

As to procedure in criminal trials in British Guiana, the following sections of the Criminal Law (Procedure) Ordinance (Cap. 11) are material :-

16. "Subject to the provisions of this Ordinance and of any other statute for the time being in force, the practice and procedure of the Court shall be, as nearly as possible, the same as the practice and procedure for the time being in force in criminal causes and matters in the High Court of Justice and the courts of assize created by commission of oyer and terminer and of gaol delivery in England.

48. Subject to the provisions of this Ordinance and of any other statute for the time being in force, the practice and procedure relating to juries on the trial of indictable offences shall be as nearly as possible in accordance with the practice and procedure in the like case of the courts in England mentioned in section 16 of this Ordinance.

155. If the jury are not immediately prepared to return their verdict, they may, by the direction of the Court or otherwise, retire for the purpose of considering it, and in that case the Court shall direct that the jury shall be kept together and proper provision made for preventing them from holding communication with any person on the subject

of the trial.

157. If the jury are not permitted to separate during an adjournment, and when the jury have retired to consider their verdict, the Court may give any directions it thinks fit with respect to their accommodation, custody, and refreshment.

158. With respect to the deliberation and verdict of the jury, the following provisions shall have effect -

(a) on the trial of a capital offence the verdict for that offence shall be unanimous:

Provided that where a person is arraigned for any offence punishable with death and the jury, by a majority of not less than ten, find such person guilty of a lesser crime, then the finding of the majority shall, subject to the provisions of paragraphs (b) and (c) of this section, be taken as the verdict and sentence shall follow accordingly;

(b) on the trial of any offence other than a capital offence, during the first and second hours after the jury begin to consider their verdict, the verdict shall be unanimous; and

(c) on the trial of any offence other than a capital offence if, on the expiration of two hours from the time when the jury begin to consider their verdict, they are agreed in the proportion of eleven to one or ten to two, or, where the jury consist of eleven jurors, in the proportion of ten to one, the verdict of that majority shall be taken and have effect as the verdict of the jury."

5. At the trial the main evidence adduced by the prosecution as implicating the two accused was that of five witnesses, four of whom were members of a family between whom and the family of the accused there was evidence of some enmity and ill will, and who, it was the Appellant's case, gave false evidence against him, while the fifth man was a man who, according to two witnesses called by the defence, admitted that he had been bribed to give false testimony.

6. The deceased and the two accused had their homes on the Mahaica river. The two accused lived at Karappa

some fifteen miles up the river where the Appellant also farmed. The deceased lived ten or twelve miles down the river from Karappa, i.e. north of Karappa, but had an interest in land where he kept some cows, some miles up the river above Karappa in the Lamma Creek. On Tuesday the 9th February the deceased came up the river in order to visit his cows at Lamma and put up for the night at the house of Ramdowar's wife Bucksa at Grass Hook about two miles down stream from Karappa.

p. 24, l. 36 He got up next morning about 5.30 a.m., took his corial (a dug-out canoe) and went up towards Lamma Creek. He was expected to return to Bucksa's house at about 9 a.m. However, he did not return. Later Bucksa went up to Lamma to look for the deceased, but did not find him. On the way she passed the houses of the two accused and

p. 25, ll. 17-27 her evidence was that she saw the Appellant bathing in front of his house and that there was some conversation between them.

7. The deceased was not seen alive again by Bucksa or by his family. A search was made and a diver employed

p. 14, ll. 1-19 and on the 15th February in the river at Karappa a body tied to a log of wood by a vine was brought up and identified as the body of the deceased. The body was

pp. 85-86 shown to Balwant Singh the senior Government bacteriologist and pathologist and a post-mortem carried out by him on the 17th February. The back of the right side of the chest was found to be riddled with shot gun pellets and in the opinion of the pathologist death was due to (1) drowning, (2) gun shot wounds of the back. The pathologist thought that the deceased was shot, then tied up and immersed in water while still alive, and that the pellets entered the body from the back and to the right. The condition of the corpse he thought was consistent with having been immersed in water for five

p. 87, ll. 38-39 or six days. In cross-examination he said his opinion was that the pellets were fired from approximately twenty feet away, and that he did not think that the

p. 88, ll. 13-14 injuries he saw on the body could have been inflicted by someone firing from a distance of 84-96 feet.

8. The five principal witnesses whose evidence was relied on as implicating the Appellant and his co-accused, were Samaroo, Ramkarran, Dindial, Rajalall and Seenarine Singh known as Jack.

pp. 51-58, 103, 147. Samaroo, who lives at Joe Hook, Mahaica Creek about 400 yards south of the Appellant's house, i.e. further up the river, testified that on Wednesday February the 10th he went to the Appellant's house at 9 to 9.30 a.m. to recover a small craft called a ballahoo which he had

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lent the Appellant, that he proceeded to the creek corner, took his ballahoo and pushed off, when he heard the report of a gun. He turned round to look and saw the Appellant with a gun in his hand in a corial and the second accused steering the boat. He said that he saw the deceased in another corial in the creek and heard him shout out, "Ow Shoukat you shoot me." The Appellant then fired the gun again at the deceased and the deceased fell in the corial on his face. Samaroo then saw the two accused take the deceased's corial across to the left bank of the creek. He, Samaroo, was very frightened and pulled hard and tried to get to his house to the south. Samaroo's evidence as to the distance of the Appellant and the second accused from the deceased when the Appellant fired appeared to be inconsistent and contradictory. He said "Rampat was about 7-8 rods (84-96 feet) away from the two accused persons .... Peeka passed about 40 feet away from them." As to his own distance from Peeka when he was shot, he pointed out a distance estimated by the trial Judge to be 150 yards, but then later in his evidence said, "It was from that distance, i.e. 7-8 rods that Shoukat fire. When I turned around the two accused persons were 25-30 rods away from me."

p.55; ll.2-3
p.55, ll.7-8
p.53, ll.25-30
p.56, l.43 - p.57, l.2

This witness, according to his own testimony, did not give a statement to the Police until more than two days after Peeka's burial.

p.55, ll.11-12

Ramkarran is the brother of Samaroo and he stated in evidence that on the morning of the 10th February about nine to ten o'clock in the morning he was ploughing and then he went for his cows to the north of the house where he lived, which was behind the Appellant's house. He stated that while doing that he heard the report of a gun and then he heard the deceased say "Ow Shoukat you shoot me" and the Appellant reply "Shut your rass you no dead yet", and then heard another shot fired.

pp.45-51, 148

This witness also testified that he gave a statement to the Police only after Peeka's body was found.

p. 47, ll.35-36

Dindial is an uncle of Samaroo and Ramkarran and he testified that he spent the night of Tuesday the 9th February at the house of a Mr. Rampersaud at Joe Hook. He stated that on the morning of the 10th February he, together with a friend, Rajalall (who gave similar evidence) saw the deceased pass down river coming from Lamma Creek. About half an hour after the deceased passed they heard two reports of a gun. They then went

pp.28-33, 146
pp.34-37, 147

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lower down the creek and when they reached some 400 yards they heard the sound of the chopping of wood and in the little branch of the creek near the houses of the Appellant and the second accused, but on the opposite side of the river, they saw the Appellant and the second accused with two corials. They were both standing in the water, the Appellant chopping wood and the second accused twisting a vine.

These two witnesses likewise did not make statements to the Police until after Rampat's body was found. 10
p.32, l.45 Dindial said that he gave his statement after Rampat was buried and Rajalall, it appears from his testimony did
p.36, ll.36-41 not give a statement to the Police until long after Rampat's body was found.

pp.37-45, 148 Seenarine Singh known as Jack testified that on a Wednesday morning the date of which he could not remember he was walking up from Big Biaboo, Mahaica Creek up to Rampersaud's house at Joe Hook, passing near the small creek near the houses of the Appellant and the second accused when he saw the Appellant and the second 20 accused cutting wood and twisting vine. He went on to say that he saw the second accused haul a man with a khaki shirt from the side of a corial at the side of the creek and take him to the Appellant. The man with the khaki shirt was not making any movement. Seenarine Singh said that he did not see the face of the man with the khaki shirt very well, and that the second accused then came towards him with a cutlass and he ran away.

This witness likewise went to the Police with his story very belatedly. According to his evidence he 30
p.42, ll.19-21 "told the Police the thing on the Thursday after Peeka was buried."

9. Samaroo and Ramkarran were brothers and Dindial was their uncle and it was the case of both accused that there was a feud between their family and that of the two accused.

p.57, l.22 Samaroo's evidence in cross-examination was that three years previously there had been a big fight between the second accused and his (Samaroo's) brother and the second accused had been convicted by the 40
p.52, l.36 Magistrate as a result. He also admitted that he was one of the defendants in an action filed in the Supreme Court by Jehangir the father of the Appellant and the second accused claiming that his, i.e. Samaroo's family
p.57, l.15 had killed Jehangir's cows, and further stated in cross-examination that his uncle Jowna Persaud had been one of

the four who on a previous occasion had been charged with shooting the Appellant.

Dindial stated in cross-examination that he had testified to the Magistrate that he did not speak to the Appellant and the second accused; that they had had "cases in Magistrate's court and that is why we are not on terms." He further stated that he had been convicted and fined on a charge of wounding the second accused and that the Appellant and the second accused had also been convicted on charges of wounding him. He too was a defendant in Jehangir's pending action. p.32, ll.8-12 p.32, ll.13-16 p.32, l.18

Rajalall is a connection by marriage of Dindial. He stated that he and Dindial's brother Ramdyal are married to two sisters and that he had been working with Dindial for eight years. p.34, l.39 p.36, l.10

With regard to Seenarine Singh, two witnesses were called for the defence, namely Kampta Persaud and Collins who testified that Seenarine Singh had told them that he had, in fact, on the day in question not seen anything at all in the creek but that he had been bribed to say that he had. pp.115, 131

10. The prosecution also relied upon some evidence that the Appellant bore ill-will to the deceased because the Appellant some time before had been shot and he thought that it had been the deceased who shot him. However, one of the witnesses relied upon to show this ill-will on the part of the Appellant, namely the son of the deceased, Pooran Rampat, deposed to a conversation with the Appellant in which, it is true, the Appellant stated that he had heard that the deceased had shot him but which, according to Pooran Rampat's evidence, concluded by the Appellant saying that he did not believe that his father had shot him and that he saw who did shoot him. p.15, l.12 p.21, ll.17-21

11. The Appellant and the second accused both made statements from the dock denying that they were in the vicinity of the alleged crime or knew anything at all about it. The Appellant said that he was working in his garden farm at the time the alleged crime took place. The Appellant added that he had never told anyone that the deceased shot him and that he still said that it was the four men that he had charged with shooting him (who were acquitted) who had actually shot him. In support of his defence the Appellant called his wife Haliman, his mother Rose Dalgetty and his father Jehangir, who supported his account of his pp.104,105 p.123 p.108 pp.111-114, 150

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whereabouts at the material time, and other witnesses.
p.139 One witness, Basil Indar, testified that a few days after the body of the deceased was brought to Mahaica Launch stelling one of the police witnesses, P.C.Maltay,
p.140, l.5 came to him and said that he had received information that the witness and certain other named persons had murdered the deceased. The witness then said he went to the Police Station with P.C. Maltay and made a statement as to his movements from the time that the deceased was missing.

pp.155-253 12. The learned trial Judge (Bollers, J.) summed up to the jury on the 2nd June 1960 at some considerable
p.154, ll.29 -30 length. On that day the jury assembled and were checked at 8.40 a.m. and Crown Counsel concluded his address.
p.154, l.34 The summing-up started at 10.14 a.m. and concluded
p.259, ll.18-21 (after an interval for lunch from 11.20 a.m. to 12.30 p.m.) at 4.50 p.m. In the course of his summing-up the
p.260, l.4 learned Judge referred to the possibility that the jury may have found certain contradictions and discrepancies in the evidence between the witnesses and said :-

p.159, l.45 -p.160, l.5 "You may come to the conclusion that some of those contradictions or discrepancies arise from wilful falsehood, whilst others arise only because of faulty memory on the part of the particular witness or witnesses. In any event, you must only accept and act upon what you believe to be true sifting the evidence in this case.....

p.160, ll.14 -22 In that connection it is my duty to tell you that you are perfectly free to accept a portion of the evidence of a particular witness and to reject another portion or the remaining portion of his evidence. It is quite open to you to accept a single sentence of the evidence of a particular witness and reject all the remaining portion of his evidence. Similarly, you can accept the major portion of the evidence of a witness and reject just a small portion."

p.218, ll.40 -45 In dealing with the evidence of Samaroo the learned Judge referred to his statement that he was a distance of about 150 yards from Peeka when he was shot and quoted without comment Samaroo's further statement that he could have seen the accused persons and they could have seen him. As to Samaroo's evidence about the distance that Peeka was from the Appellant and the other accused, the learned Judge quoted the contradictory parts of his testimony without making any observation as to the inconsistency. The learned Judge said :-

"When Rampat was shot, this witness says, he was about 7-8 rods away from the two accused persons. He says - p.219, ll.36-42

'..Peeka passed about 40 feet away from them' ...

The learned pathologist has told you that in his view - and it is only in his view and estimation - the deceased was about 20 feet away when the gun went off. That is only his view. It may very well have been 40 feet away. This witness (Samaroo) has said that Peeka passed about 40 feet away from the two accused persons. So, gentlemen, that is a matter of fact for you to determine." p.220, ll.10-17

Dealing with the evidence of Basil Indar the learned Judge said :-

"That evidence gentlemen, would seem to indicate that the Police had evidence that other people had murdered this man Peeka." p.246, l.43

The learned Judge nowhere in the course of his summing-up gave any direction to the jury as to the need for unanimity in arriving at a verdict.

13. The jury retired at 4.50 p.m. They returned at 8.40 p.m. when the foreman stated that the jury could not agree. The learned Judge then asked the foreman if the jury needed further directions, to which the foreman replied that they did not. The learned Judge nevertheless, gave the jury further directions in the following terms :- p.260, ll.5-11

"Gentlemen of the jury, I want to remind you of the oath that each and everyone of you took at the commencement of this case. It reads as follows :- pp.254-255

'You shall well and truly try and true deliverance make between Our Sovereign Lady the Queen and the prisoners at the Bar whom you shall have in charge, and a true verdict give according to the evidence. So help you God.'

I want to direct your attention to the last two sentences in that oath that you have taken - 'And a true verdict according to the evidence. So help you God.'

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Well, the evidence that has been led in this case by the Crown and by the accused prisoners is clear and I can see no difficulty at all why you should not arrive at a final conclusion in this matter.

When you get into that jury-room you must put all extraneous matter away from your deliberations. If you take extraneous matter and improper matter into your deliberations in deciding whether the case has been proved or not proved against the accused persons, then you will not be acting in accordance with the oath which you have taken.

It appears to me that this Colony is reaching a stage, or wants to reach a stage, when it can manage its own affairs. Well this kind of thing that is going on amongst the Jury would not help. In my very humble submission I cannot see how it will help one way or the other.

Now you must return to that jury-room and consider the matter again and then make up your minds one way or the other. If you feel one way and another member of the jury thinks another way, then you must examine the arguments of each other, and accept reason. You must not be pig-headed. Not because you may feel one way or the other does it mean that you must never give way, even though sound common-sense and good reason are placed before you.

The community is looking to you to return a verdict in accordance with the evidence and in accordance with your own conscience. If you fail to do that you will not only be bringing disgrace upon the community but you will be bringing disgrace upon yourselves, which is perhaps even worse.

Gentlemen of the jury, I am now going to order you to return to that jury room and consider the matter calmly and dispassionately, and give you an opportunity of arriving at an honest verdict in this case. Please see that you do not besmirch the fair name of your country. Please return to the jury-room."

p.260, ll.12-27

14. The jury retired again at 8.49 p.m. At 10.0 p.m. they returned and the foreman stated that they would like "further legal direction as to accomplices after the fact." The learned Judge gave them further directions stating that during the course of the summing-up he did not mention the word "accomplices" but only "acting in

p.255, l.24 -259, l.17

concert in pursuance of a common design to commit the offence for which the accused persons stand charged", and directed the jury further as to common design and as to the position of a principal in the first degree and a principal in the second degree.

15. The jury retired again at 10.15 p.m. and returned at 1.35 a.m. the following morning when verdicts of guilty in the case of both were returned, in the case of the second accused with a very strong recommendation to mercy. The Appellant and the second accused were then sentenced to death. p.260, l.28 - p.261, l.15

16. The Appellant and the second accused appealed to the West Indies Federal Supreme Court against their conviction and sentence on the 4th June 1960. The grounds of appeal were, inter alia, as follows : pp.262-267

.....

2. The verdict of the Jury was unreasonable. p.264

3. The Jury was coerced into returning a verdict after returning to the Court-Room with a verdict of a Disagreement and specifically stating that they wanted no further directions. This was after they had deliberated for over four hours. pp.266-267

.....

5. The verdict returned was not a true and correct verdict.

.....

8. The learned trial Judge erred when he refused to accept the first verdict of a Disagreement.

9. The learned trial Judge misled the Jury when he ordered them to arrive at a verdict "one way or another."

17. By application dated 30th August 1960 the Appellant and the second accused applied to the Federal Supreme Court for leave to tender Affidavits of two of the jurors, namely Sheik Mohamed Ishmael and John Croal dated respectively the 4th June 1960 and the 8th August 1960 in support of grounds 2, 3, 5 and 9 of the grounds of appeal. In these Affidavits, the two jurors deposed that during the retirement of the jury they had been pp.267-268 pp.269-272

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threatened with violence by other jurors if they did not agree to convict. Sheik Mohamed Ishmael stated that in fact he never did agree to the verdict that was given and John Croal deposed that he was induced to concur in the verdict by the threats of certain of his fellow jurors and because he was afraid of the words used by the trial Judge.

pp.269-270
pp.271-272

18. The Appellant and the second accused also applied by the said Application for leave to lead fresh evidence, namely, that of one Ramdass, to rebut the evidence given by the Crown witnesses Seenarine Singh called Jack and Ramkarran.

pp.267-268

19. The learned Judge furnished a Report to the Federal Supreme Court under section 24 of the Federal Supreme Court (Appeals) Ordinance 1958 (number 19 of 1958), in which he dealt with the matters alleged in the Affidavits of Sheik Mohamed Ishmael and John Croal and made certain observations as to the Application for leave to lead fresh evidence.

pp.279-283

20. The Appeal was heard by the Federal Supreme Court (The Hon. The Chief Justice, the Hon. Sir Alfred Rennie and the Hon. Mr. Justice Marnan) on the 8th, 9th, 12th and 14th September 1960, on which last mentioned day Judgment was delivered allowing the appeal of the second accused and dismissing the appeal of the Appellant. In its Judgment the Court refused the application to admit the evidence of Ramdass and refused to admit the Affidavits of the jurors. The Court then turned to consider the terms of the learned Trial Judge's further directions to the jury when they returned on the first occasion, stating as follows :

p.283
pp.283-92

> "Counsel for the applicants has urged that the Judge's words 'you must --- make up your minds one way or the other' could to a jury in British Guiana only mean that they must bring in a verdict before the judge would release them. A similar phrase was used by the Recorder in Creasey, but the Court did not consider the direction as a whole was wrong, although probably this was the phrase which as the court said 'might have been put differently.' One must also remember that a sensible English Jury might not be disposed to take a judge so literally as a jury exhausted by long hours of listening and deliberation in the tropic heat."

p.289, l.39 -p.290, l.7

Turning to the second occasion when the Jury returned, the court expressed the opinion that what was then

p.290, l.22 -p.291, l.24

troubling them or some of them was a doubt as to the part played in the crime by the second accused.

The Court continued :-

"It is indeed a heavy burden to ask a judge at the end of a very long and arduous day to divine what was going on in the jury's minds and here we should like to make this observation. The judge began his charge to the jury at 11.20 a.m. (sic) and finished at 4.45 p.m. When this happens we would strongly recommend that the judge leaves his concluding remarks until the following morning when the jury return fresh from mind and spirit and when the judge can unwearyingly place his training and experience at their disposal. It is not in the interest of justice that juries after listening to the judge's charge for 5 or 6 hours should be locked up in the jury room for a further 7 or 8 hours until 1.35 in the morning." p.291, ll.29 -43

Dealing with the Judge's adjuration to the jury when they first reported disagreement at 8.40 p.m. and the prolonged strain to which the jury were subjected, the Court expressed the view :-

"that the adjuration was too strongly worded and might have been differently put, and we have already observed that it is undesirable to subject juries to such long hours of strain." p.292, ll.8 -16

The Court however concluded -

"Nevertheless we do not regard these matters even when taken together as a sufficient ground of appeal; and in the case of the first appellant we are satisfied that there has not been any miscarriage of justice."

21. The Appellant submits that the terms of the learned trial Judge's directions to the jury when they returned the first time were such that the jury must have thought that it was obligatory upon them to return a verdict and that they were not entitled to adhere to their disagreement. The Learned Judge having said that he could see no difficulty at all why they should not arrive at a final conclusion in this matter, shortly afterwards said in terms that they "must return to that jury-room and consider the matter again and then make up your minds one way or the other." Again he said in terms that the community was looking to them to return p.254, ll.23 -25 p.255, ll.1-3 p.255, ll.11 -16

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a verdict in accordance with the evidence and in accordance with their own conscience and if they failed they would be bringing disgrace upon the community and upon themselves. Nowhere in the learned Judge's further directions is the need for unanimity or the possibility that there might be a genuine conscientious inability on the part of the members of the jury to reach agreement referred to. The learned Judge's
p.254, ll.35 -36 reference to "this kind of thing that is going on amongst the jury" cannot be related to any fact that appears on the record other than the mere fact of the jury's disagreement.

22. The Appellant further submits that the learned trial Judge, by refusing to accept the position that the jury were in disagreement and required no further directions, when they had been deliberating for nearly four hours and had been in attendance at the Court since 8.40 a.m. and by directing them in the terms of his further directions, was putting pressure upon them to appear to have arrived at a conclusion when they had not, in fact, so done. In the Appellant's submission the Federal Supreme Court was wrong in holding, despite the criticisms it voiced of the terms in which these further directions were given and the strain to which the jury were subjected, that the verdict should stand. The Appellant respectfully submits that, having regard to the terms in which the further directions of the learned trial Judge were couched and the circumstances in which they were given, he has been deprived of the substance of a fair trial by jury and has been denied justice.

23. With regard to the Affidavits of the two jurors which it was sought to put in evidence before the Federal Supreme Court, while it is not disputed that in ordinary circumstances inquiry is not to be made as to what passes in the jury-room, the Appellant submits that in the circumstances of this case where, as he submits, the learned Judge's directions must have suggested to the minds of the jury that they had to return a verdict, these Affidavits should be received as showing the effect on the jury which, in fact, the Judge's misdirection had.

24. The Appellant respectfully submits that his appeal should be allowed for the following amongst other

R E A S O N S

(1) BECAUSE the trial Judge put pressure upon the jury to bring in a verdict when they could not agree and required no further directions.

(2) BECAUSE the jury's verdict against the Appellant was not freely arrived at.

(3) BECAUSE the trial Judge seriously misdirected the jury by telling them in substance that they were not entitled to disagree.

(4) BECAUSE the Appellant was deprived of his right of being tried fairly and properly by a jury.

(5) BECAUSE the trial Judge should have broken off his summing-up on the 2nd June 1960 and concluded it on the following day.

(6) BECAUSE the trial Judge should have accepted the jury's disagreement.

(7) BECAUSE the Federal Supreme Court's criticisms of the trial Judge should have led it to set aside the conviction in the Appellant's case as well as in that of his co-accused.

(8) BECAUSE the Federal Supreme Court should have received the Affidavits of Sheik Mohamed Ishmael and John Croal to show the effect of the trial Judge's words upon the jury.

(9) BECAUSE the Federal Supreme Court was wrong in upholding the Appellant's said conviction and sentence.

(10) BECAUSE in all the circumstances there has been in this case a serious miscarriage of justice.

PHINEAS QUASS

MONTAGUE SOLOMON.

IN THE PRIVY COUNCIL

O N A P P E A L

FROM THE WEST INDIES FEDERAL
SUPREME COURT
APPELLATE JURISDICTION

Territory: British Guiana

B E T W E E N :

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- and -

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