

~~A.C.~~  
~~G.H.S.G. 2~~

Judgment  
15, 1966

IN THE PRIVY COUNCIL

No. 18 of 1965

ON APPEAL

FROM THE SIERRA LEONE COURT OF APPEAL

B E T W E E N :

SALIM RAKAR Appellant

-and-

THE QUEEN Respondent

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C A S E FOR THE APPELLANT

Record

1. This is an appeal against the Judgment of the Sierra Leone Court of Appeal (Ames P., Dove-Edwin J.A. and Marke J.) dated the 24th day of October, 1964, whereby the said Court dismissed the Appellant's appeal against his conviction by the Criminal Sessions of the Supreme Court of Sierra Leone held at Freetown (Cole P.J. and a Jury) on the 7th day of April 1963 upon a charge of robbery with aggravation.

p.76

p.64

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2. The Appellant was charged together with four others as follows:-

"STATEMENT OF OFFENCE - ROBBERY WITH

pp.1-2

AGGRAVATION, contrary to Section 23(1)(a) of the Larceny Act, 1916

Particulars of Offence:

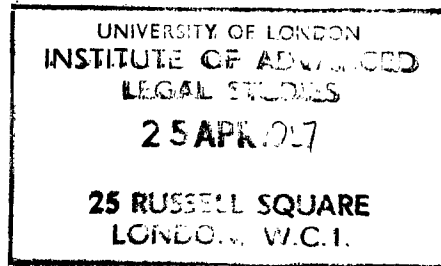
Joseph Sabrah, George Thomas [it would appear that this is in error for George Thorne] Salim Rakah, Abu Bakarr Taylor-Kamara and Claudius Thomas on or about the 30th day of August, 1963, between mile 40 and mile 41 in the Freetown-Bo Road in the Port Loko District

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Record

of Sierra Leone together robbed Olivio Paolo of one black tin trunk, £6,000 in money and one car key the property of Messrs. Vianni Co. Ltd., while in the custody of the said Olivio Paolo."

- p.6, l.16. 3. In respect of Claudius Thomas, the 5th accused, a nolle prosequi was entered by the prosecution, and in the case of Abu Bakarr Taylor-Kamara, the 4th accused, who was absent at the commencement of the trial, there was a direction by the trial judge that he should be tried separately. 10
- p.7, l.14. 4. The principal grounds of this appeal are as follows:-
- pp.13-16, 20-21. (a) The only witness who implicated the Appellant in the alleged robbery was one Abu Bangura. The learned trial judge directed the jury, it is submitted rightly, that there was evidence that this witness was implicated in the commission of the alleged crime and was in the position of an accomplice, and that therefore the jury ought not to convict any one of the accused in the absence of corroboration. It is submitted that there was in fact no evidence against the Appellant which was capable of being considered as corroboration. The learned trial judge did not direct the jury that there was no such corroborative evidence, as it is submitted he ought to have done, but on the contrary referred to evidence as corroborating the case against the Appellant which was not admissible evidence against the Appellant at all. This evidence derived from an unsigned statement alleged to have been made to a police officer by Joseph Sabrah, the 1st accused. It is further submitted that in directing the jury that this evidence might be evidence against the Appellant, the learned trial judge nullified the general warnings that he gave elsewhere to the jury that they were to keep the cases of the various accused separate and distinct. 20 30 40
- p.56, l.28 - p.57, l.7.
- p.52, ll.8 - 47
- p.58, l.31 - p.59, l.15.
- p.61, ll.16 - 38.
- (b) In Sierra Leone in the case of a trial for an offence not punishable by death (as e.g. the offence charged in this case) the jury may

bring in a verdict by a majority of two-thirds, but the trial judge has a discretion to refuse to accept such verdict if he is not satisfied that it is in accordance with the weight of the evidence. In the present case the Appellant was convicted by a majority of just two-thirds. It is respectfully submitted that from the learned trial judge's misdirections to the jury referred to in the preceding sub-paragraph hereof, an inference arises that he misdirected himself on these matters and was thereby disabled from properly exercising the discretion that he was required to exercise in deciding whether the jury's majority verdict ought to be accepted. The said verdict was not in accordance with the weight of the evidence. It is submitted that the jury would not have arrived at it had they been properly directed by the learned judge as to the evidence admissible against the Appellant and the learned judge should and would, had he not misdirected himself as to what was admissible against the Appellant, have refused to accept the said verdict as being not in accordance with the weight of the evidence.

Recordp.64.  
1.9.

5. The Jurors and Assessors Ordinance provides as follows:-

"27. (1) On the trial of any person or persons for any offence punishable by death the verdict shall be unanimous.

(2) On the trial of any person or persons for any offence not punishable by death, if, after deliberation, there be a majority of two-thirds of the jury, the verdict of the majority of two-thirds shall be held, taken to be, and received by every Court in the said Colony as the verdict of the whole jury in the cause ....

.... Provided .... that, if the Court is not satisfied that the verdict of the said majority is in accordance with the weight of the evidence, the Court may refuse to accept it, and in each and every such case the verdict shall be unanimous."

6. At the trial the following witnesses gave evidence for the prosecution.

Record  
p.8, l.13-  
p.11, l.19.

Paul Olivio testified that he was an Accountant of Messrs. Vianini Sierra Leone Limited, and that on the morning of the 30th of August, 1963, he travelled in one of the Company's cars driven by one Abu Bangura from Rokell to Freetown. There were other passengers in the car. He said that he went to the Company's office at Signal Hill and received two cheques for £6,000 and £50. The cheque for £6,000 he took to the Bank the same day and cashed, putting the money in a black tin box, which he locked after checking it. He testified that the driver, Abu Bangura, was with him when he was paid the money and helped him to carry the box to the car after he had locked it. The box was then taken in the car to the office of the Company, but there was some delay, two ladies being collected on the way, who did some shopping. While the car was waiting outside the shop, Taylor Kamara, the 4th accused, spoke with Abu Bangura and went away. When the car arrived at the office of the Company the money was again checked and left locked up in a safe. Later on the same day they went back to the office, the money was taken out of the safe, checked again, put inside the box, which was locked, and the box put in the boot of the car, which was also locked. The car was then driven off by Abu Bangura, with the witness inside, to, among other places, Fourah Bay Road, where they bought bread, after which the car eventually left, still with the witness inside, for its destination at Rokell. When the car thus left Freetown, besides Olivio and the driver, the occupants were Cecil Max George and Mrs. Pigglucci. At about mile post 40-41 the witness said that he saw a Volkswagen car travelling in front of them in the same direction at very slow speed. When their car got to about 60 feet from the Volkswagen, the Volkswagen started zigzagging. It continued to do so until their car got to where the dual carriage-way began. The driver, Abu Bangura, did not hoot for the Volkswagen in front to give them way to pass. On reaching an island in the road, the Volkswagen stopped, leaving their car no room to pass. Four men alighted from the Volkswagen, one of whom came to the side of the car on which the witness was sitting (at the back) and the other three on the other side where Mrs. Pigglucci was sitting (also at the back). The man who came to

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the side on which the witness was sitting was carrying a pistol and was partly masked by a handkerchief around the lower part of his face, which however slipped down. This man the witness identified as the 1st accused. The witness said that this man took a second pistol from the Volkswagen and pointed both pistols at him that one of the other three men asked Abu Bangura to hand over the keys, and that the witness, at whom the 1st accused still had his pistols pointed, told Abu Bangura to give the keys to the men. The other three men went to the back of the witness's car and opened the boot. The 1st accused then joined them at the back of the car and one of the four men took out from the boot of the car the tin box containing the money, which was then locked in the Volkswagen. One of the four men returned the keys of the witness's car to Abu Bangura, another took the key from off the starter, the four men then boarded the Volkswagen, where they were joined by two other men from the bush on the side of the road, and they all drove off with the tin box which contained the money.

This witness stated in evidence that he "could not tell what the faces of the other three men looked like."

p.10, l.24.

When the matter was later being investigated, he told the C.I.D. that he "could recognize one of them." He subsequently picked out the 1st accused in an Identification Parade in which nine men took part including the Appellant, but at no time did he ever pick out or identify the Appellant as having been a participant in the robbery.

p.11,l.48.

p.11, l.27.

p.22, l.4-35.

p.24, l.8.

7. The driver of Olivio's car, Abu Bangura, gave evidence describing the hold up. He described how, after zigzagging in front of his car for some distance, the Volkswagen Car stopped unexpectedly, and the witness applied his brakes and stopped near the Volkswagen. As soon as he stopped, he saw four men getting out of the Volkswagen, one carrying a gun, another a cutlass, another a pistol and a fourth an axe. Abu Bangura's evidence was that he was threatened by the man with an axe who demanded the keys of the car. The witness described how he refused a number of times to give up the keys, and eventually replaced them on the switch and how he was ordered

p.13, l.14.

Record

to open the boot of the car, which when Olivio eventually so instructed him, he did. His further evidence was that the four men (and two men who joined them from the bush) drove off in the Volkswagen Car with the tin box that they took from the boot of Olivio's car and also with the keys.

p.15, l.29 This witness purported to identify the Appellant as one of the men who had participated in the hold-up and indeed purported to identify all three accused. 10

p.13; l.25  
p.13; l.40  
p.16, l.1 This witness in his evidence referred to certain conversations which he had had with the 4th accused, Bakarr Taylor Kamara, on the 30th August, 1963, the day of the robbery, but before it took place. He said that on that day, prior to the robbery Bakarr Taylor Kamara, who was, like him, an employee of Vianini (S.L.) Limited, spoke to him on two occasions suggesting making arrangements to steal the money that was to be conveyed in the car, and that he saw the fourth accused at the scene of the crime. His evidence as to this (in cross-examination on behalf of the second accused) was as follows:- 20

p.16, l.5 "He spoke to me twice. Once at the office and the other at the Las Palmas Store. He said we should arrange to steal the money. I said no. I then later saw him at Las Palmas Store. He asked me whether we were about leaving for Rokel. I told him were going to the office. Kamara then said I should greet his mother-in-law on arrival at Rokel. I saw Taylor Kamara at the scene of the incident. He was inside the car he never came out. I did not tell 2 p.w. [Paulo Olivio] immediately after the incident that I had seen Taylor Kamara in the Volkswagen Car. Taylor Kamara was an employee of the Company working at the Freetown office. I did not tell 2 p.w. or anyone before the incident that Taylor Kamara had suggested that we should arrange to steal money. I did not then take him seriously." 30 40

p.16, l.26 His further evidence was that he was brought by the Police to the C.I.D., that he was detained in a cell for two nights, and that he

was then asked to make a statement and to identify the accused. He said that he identified the accused eight days after the date of the robbery.

Record  
p.16, 11.44 -  
46.

This witness, cross-examined on behalf of the Appellant, further testified as follows:-

10 "I only told Police I had seen Abu Taylor-Kamara in the car. I did not tell Police at the scene what Taylor-Kamara had suggested to me in the morning ... It is not correct to say that every day I went to report at the Police Station, the police would question me about the case. I now say that the police would question me about the matter. I was put in cell because I would not talk."

p.20, 1.19.  
- p.21, 1.19.

20 According to another prosecution witness, Detective Sub-Inspector Smith, the officer in charge of the investigation, Abu Bangura stated on the 31st August 1963, the day after the robbery, that he could not identify his attackers. This witness also testified that there was only one occasion when an identification parade was held by the Police and that Abu Bangura did not go into the room where the identification parade was held.

p.29, 1.6.

p.28, 1.23 and  
1.34.

p.29, 1.28.

30 8. Mr. Cecil George also gave evidence describing the hold-up. He said that the 1st accused looked like the man who was carrying the pistol, but apart from this he did not purport to identify any of the participants of the robbery. He said that he did not take part in any Identification Parade.

p.17, 1.9.  
p.18, 1.36.

p.18, 1.45.

9. The prosecution relied upon the evidence of one Sallu Conteh as corroborating that of Abu Bangura.

p.36, 1.3  
-p.38, 1.33.

40 Sallu Conteh was a taxi driver who testified that on the 2nd September 1963, i.e. three days after the date of the alleged offence, he saw all three accused together in a house in Dan Street, and drove the first accused, the Appellant and one other (one Bunting) to Mano, at the request of the first accused, who said that he had received a message from Mano that his grandmother was ill. At Mano the taxi stopped in front of a house and all the passengers went inside. The Appellant came out

Record

and then the first accused and the other passenger.  
Sallu Conteh's evidence continued:-

p.36,  
l.48.

"1st accused was carrying a brown suitcase. That was the first time I saw the suitcase. They asked me to drive to Freetown. 1st accused boarded the car with the suitcase. On our way to Freetown we went up with a black Humber Hawk car C.99. That was a mile to Tiama. That car was travelling in the opposite direction. Somebody in the car called out "Joseph". 1st accused then asked me to stop the car. The car C.99 also stopped. 1st accused and 3rd accused alighted from my car when I stopped. They went to the other car C.99 and returned to my car. 1st accused and 3rd accused boarded my car. 1st accused asked me not to drive fast and to allow C.99 to over take my car as that car has not enough petrol. I allowed the car to overtake my car. About 2 miles to mile 91 on the Freetown Bo Road I overtook C.99. At mile 91 1st and 3rd accused asked me to wait for car C.99. I stopped my car. I then saw 2nd accused walking. He came from the P.W.D. Works. He came up to my car. 2nd accused said that his car would not start. Bunting bought petrol and oil and then 1st accused asked me to drive them on to the car, C.99. I refused. 2nd Accused begged me. I then agreed. I drove 2nd and 3rd accused together with the oil and petrol on to C.99. I left 1st accused and Bunting at mile 91. After the oil and petrol had been put in C.99 it would not start. So I left the car C.99 there and returned to mile 91 with 2nd and 3rd accused. There 1st accused and Bunting joined us and we all came to Freetown. By the Two-sisters' Cotton Tree, at Wellington Village 1st accused asked me to stop. I stopped. 1st accused then paid me 2/- I left them there and came to Freetown. All this happened on the 2.9.63. I think it was a Monday. At Wellington 1st accused alighted with the brown suitcase he had collected at Mano".

Sallu Conteh in cross-examination, said that in the incidents which he had described as taking



place on the 2nd September 1963, the Appellant "was merely a spectator". In any event, he gave no evidence as to what the suitcase contained and no evidence, it is submitted, in any way implicating the Appellant in the alleged offence committed three days before. So far as the case against the Appellant is concerned, the effect of his evidence is, the Appellant respectfully submits, that the Appellant accompanied the first and second accused on an excursion in a motorcar, during the latter part of which the first accused was carrying a brown suitcase, three days after the alleged offence was committed.

Record  
p.38, 1.14.

There was no other evidence called by the prosecution which corroborated the evidence of Abu Bangura against the Appellant or which was evidence of the Appellant's guilt.

10. So far as the case against the first accused is concerned, there was evidence that he made a statement to the Police, (which he did not sign), which was objected to on behalf of the first accused but which was admitted in evidence. In this statement the first accused admitted the offence, implicating also the Appellant and the second and fourth accused, and described how after the robbery he had taken the stolen money in a suit case to Mano and how on the 2nd of September, together with the Appellant and Bunting, he had hired a taxi driven by one Sallu in order to drive over to Mano to collect the money. His statement went on to describe how they did this and divided the money amongst themselves.

p.27, 11.14-29.

p.82.

The statement made by the Appellant and given in evidence by the prosecution said nothing except that he reserved his defence.

p.33, 1.28.

p.85.

11. The first accused made a statement from the dock denying the offence. The second accused gave sworn evidence denying the offence. With regard to the events of 2nd September, 1963 he testified that on that day he hailed a taxi at the request of the first accused who told him that he wanted to travel to Mano as his grandmother was ill, that he (the second accused) did not travel to Mano in that taxi but later went with one Mossah to meet the first accused and met him about a mile to Tiama, at which time the first accused was in company with the Appellant in a taxi.

pp.39-40  
pp.40-42

Record  
pp.43 -46.

12. The Appellant gave sworn evidence denying the offence. He said that on the 30th August 1963, he was ill in bed the whole of the day. With regard to the events of the 2nd of September 1963, he testified as follows:-

p.43, l.27 -  
p.44, l.14.

"It is correct that I went to Mano with 1st Accused on 2.9.63. That day I was standing by Easton P/S waiting for a bus. I saw 1st Accused in a taxi. He stopped and asked me where I was going I said "to town". He then asked me to join him. I did so. 1st Accused ordered driver to drive off. I asked him where he was going. He said he was going to Mano because his grandmother was ill. 1st Accused asked me whether I had anything to do. I said "No". He asked me to accompany him to Mano. I asked him whether he was returning that very day. He said "Yes". I asked the driver of the taxi whether he would return the same day. I went with 1st Accused to Mano. At Mano 1st Accused invited me into a house. He and I and Bunting went inside. I asked 1st Accused where his grandmother was. He said she had been take to a village near Songo ... I then sat in the car with 12 p.w. Sallu Conteh waiting for them. Later 1st Accused came out of the house with a suitcase. He never had it when he left Freetown. I never knew what contents of suitcase were - 12 p.w. drove off."

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In cross-examination the Appellant appears in the transcript of evidence to have testified as follows:-

p.45, ll.35 -  
43.

"By Davies - I say that when I left for Mano on the 2.9.63 I knew I was going to collect money. 1st Accused never told me anything about money. When I saw 1st Accused come out with a suitcase from the house at Mano I was not surprised. I was not surprised because he was going to his grandma. I was not interested in the suitcase. I deny that 1st Accused gave me £500 or any money. I deny that we shared money at Wellington."

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It is respectfully suggested that an error in the transcript appears in the first sentence of this passage. That this is so appears from the context, in which the Appellant was denying throughout that he knew anything about the suitcase or its contents, and also from the subsequent argument of the prosecution in the Sierra Leone Court of Appeal on the issue of what corroborative evidence there was against the Appellant, no reference being made to there having been any such passage in the Appellant's cross-examination. There was likewise no reference to any such passage in either of the Judgments in the Courts below.

Record

pp.67 -76

13. The learned trial judge, in summing-up to the jury, directed them, correctly, as it is conceded by the Appellant, that they "must consider the evidence against each accused person separately" and also that "the statement of one accused person is not evidence against either of the other two accused where such a statement is not made on oath in the presence of them." The learned judge also directed the jury, it is conceded correctly, that they might feel that Abu Bangura came within the category of persons known as accomplices in law, that they might feel that from his behaviour he knew beforehand what was going to happen, that by his conduct he was implicated in the commission of the crime and that, if so, it would be dangerous to convict on his evidence alone. The learned judge went on to direct the jury that if they found that Abu Bangura was an accomplice, they had to consider whether there was evidence besides his which they could accept and which implicated the accused in the commission of the crime.

p.48, 1.30.  
p.48, 1.43  
-p.49, 1.1p.56, 1.28  
-p.57, 1.7

The learned judge however appears to have treated the evidence of Sallu Conteh as providing corroboration in the case of all three accused. He dealt in his summing-up with the case of all three accused in the following passage.

"You will recall that Olivio said that he was certain the first accused was the man who carried the pistol in the first instance and pointed it at him and then at George. He said also that the first accused was the one who ran back to the Volkswagen car and returned with another pistol. George also

p.52, 11.8  
- 47.

Record

identified this accused as did Abu Bangura. As regards the second accused, it was Bangura alone who pointed him out. As to the 3rd Accused it was again Bangura alone who pointed him out. The prosecution then put forward the proposition that the money was stolen and taken to Mano and kept there but that as soon as the police was on the scent, as far as the first accused was concerned, all three accused were seen in a car chartered by him en route to Mano. Two of them at least got there and collected the money. All three were later found in a car in which a suitcase in which was put the money which the first accused had got from Mano. The car with all three accused was driven on to as far as Wellington by the 'Two Sisters Cotton Tree' with the suitcase and money. The Prosecution say that the first accused took part in the commission of the crime. The Police interviewed the first accused some-time on the 2nd September. You will recall the evidence of Detective Sub-Inspector Smith who told you that on the 2nd of September he saw the first accused about the robbery. Then about 4 p.m. all of the accused were seen in the 1st Accused's house and later the first and third left for Mano; that later the second accused also was seen going in the direction of Mano; that the first and third accused were seen with a suitcase coming from a house at Mano and all three of them were later found in a car coming to Freetown and the car which stopped at Wellington had had in it the suitcase and money which had been retrieved from Mano."

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It is respectfully submitted that in this passage the learned trial judge was confusing the case against the first accused with that against the Appellant. In the case of the first accused there was, admittedly, the evidence afforded by his statement, which was not, however, admissible as evidence against the Appellant. There was therefore no evidence in the case against Your Petitioner that "the money" was collected or was put in a suitcase which the "first accused had got from Mano" or that "the

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car which stopped at Wellington had had in it the suitcase and money which had been retrieved from Mano."

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10 The learned judge in dealing with the case against the second accused would appear to have directed the jury in effect that the mere fact that Sallu Conteh saw all three accused together in the accused's house in Dan Street on the 2nd September was, if they accepted it, capable of being corroboration. On this he directed them as follows:-

20 "As regards the second accused, you will recall that the only person who identified him was Abu Bangura. There again, what I have said about accomplice, applies: If you find that he was an accomplice, then go further and find out whether there is evidence implicating this accused. Again, it is my duty to tell you what is capable of corroboration, and it is for you to find whether or not in fact there is such corroboration. Quite apart from Bangura who said he saw the second accused at the scene, you will recall the evidence of Sallu Conteh who said he saw all three accused together in the first accused's house at Dan Street in the afternoon of 2nd September. Again by his evidence Conteh said the second accused was seen on his way to Mano. The prosecution say if you accept the evidence of Bangura that second Accused was 30 at the scene and took part in the alleged crime with the other two accused, then yet again, two days later the second accused was seen in the house of the first accused in the company of the two others, and later on he was seen going to where according to the prosecution, the money had been kept; that the three of them came down together in a car in which, also according to the prosecution, the money was being carried - 40 the prosecution say all these bits and pieces of evidence, if you accept them, are capable of corroboration of the story of Abu Bangura that the second accused was one of those who took part in attacking the company's car on the day in question, namely 30th August."

p.58, l.31  
- p.59, l.15

Record

It is submitted that there was here a misdirection which affected the Appellant's case, for in the case of the 2nd Accused and the Appellant alike, merely being in the company of the first accused three days after the day of the crime in the circumstances deposed to by Sallu Conteh could not have been corroboration of Abu Bangura's evidence, nor could it have been evidence against either of these two accused. With regard to the suggestion that on this day the three accused went to the house "where according to the prosecution, the money had been kept", this suggestion is not to be found anywhere in the evidence of Sallu Conteh or in any other evidence admissible as against the second accused or the Appellant.

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15. In a later instance in the summing-up the learned trial judge dealt similarly, and it is submitted erroneously, with the case against the Appellant. He dealt with the question of corroboration in Your Petitioner's case in the following passage:-

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p.61, 11.16  
- 38

"The third accused was again identified by only Bangura after the latter had been in custody for about three days and after he had told the police that he could not identify any of the attackers. You may feel that he had something he was hiding. But that is entirely a matter for you. Apart from being identified as one of those who were seen at the scene, he was seen in the house of the first accused on the 2nd of September. He and first accused left by car for Mano that day, went inside the house at Mano and came out again boarded a car and returned to as far as Wellington with the suitcase according to the prosecution containing the money. That also is entirely a matter for you. The prosecution say that the surrounding circumstances are such from which you can say the first and third accused or one of them was one of those who committed the offence.

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What I told you about accomplices applies here also. You must look for corroboration if you find that Bangura was an accomplice.

The corroboration must be one which materially implicates the third accused in the commission of the crime."

Record

10 It is submitted that no suggestion that the suitcase contained money, still less "the money" which had been stolen, could be justified by any evidence at all that was admissible evidence against Your Petitioner. Accordingly the learned trial judge was pointing out to the jury evidence as being capable of being corroboration against Your Petitioner which was not evidence against him at all. It is submitted that in fact the learned trial judge should have directed the jury that there was no evidence against the Appellant which was capable of being corroboration.

20 16. The jury found the first accused guilty unahimously, the second accused guilty by a majority of 9 to 3 and Your Petitioner guilty of a majority of 8 to 4. The learned trial judge accepted the majority verdict in the case of the second accused and Your Petitioner and sentenced the first accused to 10 years imprisonment and the second accused and Your Petitioner to 7 years imprisonment each.

p.64.

30 17. The Appellant entered an appeal against his said conviction, which appeal was heard and dismissed by the Sierra Leone Court of Appeal on the 24th day of October 1964. The said Court of Appeal in its Judgment did not distinguish between the cases of the various accused, but found, seemingly in the case of all three, that the learned trial judge's directions as to corroboration were right and that there was sufficient corroborative evidence to warrant a conviction.

pp.65-67,  
pp. 76-79.

p.77; 1.38.  
p.78, 13

18. The Appellant was granted Special Leave to appeal to Her Majesty in Council by Order dated 29th January, 1965.

pp.80-81

40 19. The Appellant respectfully submits that this appeal should be allowed and the said Judgment of the Sierra Leone Court of Appeal dated the 24th day of October, 1964, and the Appellant's said conviction by the Criminal Sessions of the Supreme Court of Sierra Leone held at Freetown on the 7th day of April 1963 should be set aside for the

Record

following amongst other

R E A S O N S

1. BECAUSE the learned trial judge, having rightly directed the Jury that there was evidence that Abu Bangura was implicated in the commission of the crime and that the Jury ought not to convict any one of the accused without corroboration, failed to direct them that there was no evidence against the Appellant which was capable of being considered as corroboration.

2. BECAUSE the learned trial judge put before the Jury as being corroborative evidence against the Appellant, matters which were not evidence against him at all. 10

3. BECAUSE there was no evidence corroborating the evidence of Abu Bangura which was admissible against the Appellant.

4. BECAUSE the learned trial judge in his summing-up to the Jury confused the cases of the various accused and in particular confused the case against the first accused with the case against the Appellant. 20

5. BECAUSE the learned trial judge in his summing-up treated the statement of the 1st accused as being evidence against the Appellant.

6. BECAUSE from the learned trial judge's misdirections to the Jury on vital matters of evidence, an inference arises that he misdirected himself on these same matters, and was thereby disabled from properly exercising the discretion that he was required to exercise in deciding whether the Jury's verdict ought to be accepted and in accepting the same. 30

7. BECAUSE the Judgments of the Courts below were wrong.

E.F.N. GRATIAEN.  
MONTAGUE SOLOMON.



No. 18 of 1965

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE SIERRA LEONE  
COURT OF APPEAL

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BETWEEN:

SALIM RAKAR Appellant

- and -

THE QUEEN Respondent

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C A S E

FOR THE APPELLANT

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Solicitors for the Appellant.