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Judgment 24, 1966

IN THE PRIVY COUNCIL

No. 10 of 1966

ON APPEAL FROM

THE SUPREME COURT OF TRINIDAD AND TOBAGO

(THE COURT OF APPEAL)

B E T W E E N:

RAMNATH MOHAN (Accused No. 1)

- and -

DEODATH RAMNATH (Accused No. 2)

- and -

Appellants

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

A.L. BRYDEN & WILLIAMS,
20 Old Queen Street,
London, S.W.1.

CHARLES RUSSELL & CO.
37, Norfolk Street,
London, W.C.2.

Solicitors for the Appellants.

Solicitors for Respondent

(i)

IN THE PRIVY COUNCIL

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THE QUEEN Respondent

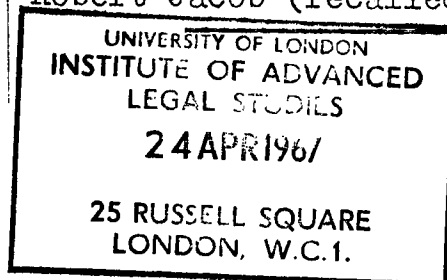
RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description	Date	Page
	<u>IN THE HIGH COURT</u>		
1	Indictment with endorsements	-	1
2	Judge's Notes of Opening of Trial	17th May 1965	4
	<u>Judge's Notes of Evidence</u>		
	<u>Prosecution Evidence</u>		
3	Rafeeq Hosein M.D.	17th May 1965	5
4	Valance Massiah M.D.	17th May 1965	6
5	Corporal G.M. Phillips	18th May 1965	11
6	Rafeeq Hosein M.D. (recalled)	18th May 1965	12

(ii)

No.	Description	Date	Page
7	O. Deane	18th May 1965	14
8	Valance Massiah M.D. (recalled)	18th May 1965	14
9	Deonarine Ragoobar	18th May 1965	15
10	Robert Jacob	19th May 1965	18
11	Nagma Sammy	19th May 1965	22
12	Sundar Singh	19th May 1965	26
13	David Jacob	19th May 1965	27
14	David Jack, P.C.	19th May 1965	28
15	Ramlal Sooknanan	19th May 1965	29
16	David Jack, P.C. (recalled)	20th May 1965	30
17	Roodal Moonoo	20th May 1965	30
18	Corporal F. Best	20th May 1965	32
19	<u>Court Notes</u>	20th May 1965	33
	<u>Defence Evidence</u>		
20	Rarnath Mohan	20th May 1965	33
21	Deodath Rarnath	20th May 1965	36
22	Enos Davis	21st May 1965	39
23	David Wint	21st May 1965	40
24	<u>Court Notes</u>	21st and 24th May 1965	41
	<u>Prosecution Evidence (continued)</u>		
25	Robert Jacob (recalled)	24th May 1965	42



87084

(iii)

No.	Description	Date	Page
26	<u>Court Notes</u>	24th May 1965	42
27	Summing up.	24th May 1965	43
28	Verdicts and Sentence	24th May 1965	89
<u>IN THE COURT OF APPEAL</u>			
29	Grounds of Appeal (Both Appellants)	-	90
30	Further Grounds of Appeal (1st Appellant)	-	91
	The same (2nd Appellant)	-	92
31	Judgment	25th October 1965	93
<u>IN THE PRIVY COUNCIL</u>			
32	Order granted special leave to appeal in forma pauperis to Her Majesty in Council	6th April 1966	99

E X H I B I T S

Mark	Description	Date	Page
D.J.1.	Cautioned Statement. Rannath Mohan.	21st September 1964	101
D.J.2.	Cautioned Statement. Deodath Rannath.	22nd September 1964	102
F.B.1.	Cautioned Statement. Deodath Rannath.	5th October 1964	103
F.B.2.	Cautioned Statement. Rannath Mohan.	5th October 1964	104

(iv)

DOCUMENTS NOT REPRODUCED

Description	Date
<u>IN THE HIGH COURT</u>	
Particulars of Trial	10th June 1965
Minute - Guilty	-
<u>IN THE COURT OF APPEAL</u>	
Notice by Rannath Mohan of application for leave to appeal	25th May 1965
Like Notice by Deodath Rannath	25th May 1965

IN THE PRIVY COUNCIL

No.10 of 1966

O N A P P E A L
FROM THE SUPREME COURT OF TRINIDAD & TOBAGO
(THE COURT OF APPEAL)

B E T W E E N

RAMNATH MOHAN
(Accused No.1)

- and -

DEODATH RAMNATH
(Accused No.2)

Appellants

- and -

THE QUEEN

Respondent

R E C O R D O F P R O C E E D I N G S

No.1
Indictment with endorsements

In the High
Court

No. 1

IN THE HIGH COURT OF JUSTICE

Indictment
with endorse-
ments.
(undated)

PORT OF SPAIN

THE QUEEN

- v -

(1) RAMNATH MOHAN
(2) DEONATH RAMNATH

In the High Court

INDICTMENT BY THE ATTORNEY GENERAL

No. 1

RAMNATH MOHAN and DEONATH RAMNATH are charged with the following offence:-

Indictment with endorsements (undated)

STATEMENT OF OFFENCE

M U R D E R

PARTICULARS OF OFFENCE

RAMNATH MOHAN and DEONATH RAMNATH, on the 4th day of October, 1964, in the County of Caroni, murdered Mootoo Sammy.

/s/ G.A. Richards
Attorney General

10

(Endorsements)

I hereby appoint Messrs. Ouditnarine Ramlogan and Alvin Fitzpatrick as Counsel and Solicitor respectively to defend the 1st named accused - RAMNATH MOHAN

Dated this 30th day of April, 1965.

H.O.B. Wooding
Chief Justice

I hereby appoint Mr. Lennox Dyalsingh and Mr. L. Ramkoomarsingh as Counsel and Solicitor respectively to defend the 2nd named accused DEONATH RAMNATH

20

Dated this 30th day of April, 1965

H.O.B. Wooding
Chief Justice

On the 17th, 18th, 19th, 20th, 21st and 24th May 1965. Before the Hon. Mr. Justice H.A. Fraser

Accused arraigned

3.

Pleas: Ramnath Mohan - Not Guilty

Deonath Ramnath- Not Guilty

Verdict: Both acc'd Guilty of Murder

Sentence Death by hanging to both acc'd.

In the High
Court

No. 1

Indictment
with endorse-
ments
(undated)

C. Razack
Clerk to Court
24/5/65

In the High Court

No. 2
Judge's Notes of Opening of Trial

No. 2

TRINIDAD AND TOBAGO

Judge's Notes of Opening of Trial.
17th May 1965

IN THE HIGH COURT OF JUSTICE

No.45 of 1965

R E G I N A

V.

1. RAMNATH MOHAN

2. DEONATH RAMNATH

for Murder

10

JUDGES NOTES

Indictment read to Accused;

Pleas: No.1 - Not Guilty

No.2 - Not Guilty

Appearances - Crown:R.A. Crawford

Accused: Edgar Gaston Johnson with
Permanand

Jury Chosen

- 1. (22) Carlyle Gonzales
- 2. (33) Randolph Lee Fook
- 3. (21) Sydney Gollop
- 4. (41) Alice Rogers
- 5. (30) Felix Kelly
- 6. (1) Valerie Alexander
- 7. (11) Robert Daniel
- 8. (10) Alfred Charles - Absent
- 9. (40) Calvin Roach
- 10. (37) Theodore Olton
- 11. (17) Leon Forde
- 12. (8) Naomi Brice
- 13. (38) Hugh Oxley

20

30

No Challenges

Jury Sworn

Foreman: (22) Carlyle Gonzales

Accused placed in charge of the Jury

Juror, Alfred Charles, again called. Does not answer. Court orders that the Juror, Alfred Charles pay a fine of \$10.00 in default 7 days imprisonment unless before the expiration of 14 days the said Alfred Charles shows cause by affidavit why this penalty should not be imposed

Waiting Jurors excused until Thursday 20th May 1965.

In the High Court

No. 2

Judge's Notes of Opening of Trial.
17th May 1965
(Contd.)

10

No. 3
Rafeeq Hosein M.D.

Prosecution Evidence

Rafeeq Hosein on his oath says:

No. 3

I am a member of the Medical Board of Trinidad and Tobago. I am attached to the General Hospital, Port of Spain. On 21st September, 1964 I examined Mootoo Sammy at 10.00 p.m. at the Casualty Department. I found on examination -

Rafeeq Hosein M.D.
17th May 1965
Examination

20

- 1) An incised wound on the right side of the chest approximately 12 inches involving muscles, ribs and the pleura;
- 2) An incised wound 5 inches long of the upper right leg which caused a compound fracture
- 3) An incised wound of the right forearm 2 inches long;
- 4) An incised wound on the right index finger 2 inches long;

30

5) An incised wound of the chin 1 inch long.
All these are proximate dimensions. The patient was given emergency treatment and admitted to Ward 3. After that I did not see the patient. There was a compound fracture of the right leg. The injuries could have been caused by a sharp cutting instrument like a poinard. A brushing cutlass could not cause these injuries. Some of the wounds could have been caused by a brushing cutlass. Some of the wounds were inflicted by a moderate degree of force and some by a severe degree of force.

Cross-examination

Cross Examination

40

The wound on the upper right leg could not have been caused by a moderate degree of force. The wounds (1) and (2) would have required a great degree of

In the High Court

Prosecution Evidence

No. 3

Rafeeq Hosein M.D.

17th May 1965 cross-examination (Contd.)

force. A poinard is a weapon which could have caused wounds (1)&(2). The poinard is a short handle with a long blade and a brushing cutlass is an instrument with a short blade and a long handle. When giving my opinion I was taking into account the sharpness of the blade. I now say that both the brushing cutlass and the poinard could have caused the injuries (1) and (2) if applied with a severe degree of force. I could say that the assailant would be facing the victim when the injuries were inflicted. All the injuries.

10

That evening I do not remember if I received a man named Deonath Ramnath at the Casualty. I could trace my records to see if I did treat a patient by that name that night.

Re-examination Further cross-examination

Re-examination: Decline.
By leave Johnson:

A person could use both hands with equal force. I would not ordinarily expect the person inflicting the injury to be left handed.

20

By leave Crawford:

Further examination

By the Court:

The wound started at the posterior lateral aspect of the right chest (witness demonstrates). The upper third of the right arm was involved. The wound ended about the diaphragm and extended for about 12 inches.

By Jury

By the Jury

(Witness demonstrates the region of the injury on the leg). In my opinion the injuries I saw could have been inflicted by a person using his right hand.

30

No. 4
Valance Massiah M.D.
17th May 1965
Examination

No. 4
Valance Massiah M.D.

Valance Massiah on his oath says:

I am a member of the Medical Board of Trinidad and Tobago and I am acting Forensic Pathologist and I am also a pathologist employed by the General Hospital. I performed a Post Mortem on

Mootoo Sammy on 10.45 a.m. on 5th October 1964 in the Mortuary of the Port of Spain General Hospital. The body was identified by Robert Jacob, a proprietor of Warrenville, Conupia. He was an uncle of the deceased. The deceased mother was also present, i.e. Magma Sammy.

In the High Court

No. 4

Valance
Massiah M.D.
17th May 1965
Examination
(Contd.)

10 The body was that of an adult East Indian male in early 30, 5 feet 4 inches tall; rigor mortis present. There was no rash of the skin or jaundice of the eyes. No clubbing of the fingers. There was no bossing of the skull or thickening of the bones. There were incised wounds on the body.

20 1. An incised sutured wound on the right posterior wall of the chest extending across the chest front right to the left crossing from the right arm pit 3 inches above the left iliac crest. The wound was right across the middle of the back flowing from right to left. The whole wound measured 15 inches in all. The wound cut the skin, the subcutaneous tissues, the muscles at both sides of the spine, the latissimus dorsai (is on the right side of the back) and the seretai posterior which are smaller muscles under the latissimus dorsai. The wound severed the 7th, 8th, 9th 10th and 11th ribs. The ribs 7, 8, 9, and 10 were severed and the pleurawas exposed and bruised. The wound had apparently cut through the muscles of the back and through 5 ribs severing 3 exposing the underlying pleura which is the covering of the lung on the right side.

30 2. The right lower lobe of the lung was collapsed. There was also a healed incised wound (recently healed) metacarpal pleuralgiael joint of the right index finger measuring $1\frac{1}{4}$ inches.

40 3. An incised wound 4 inches long in the front of the right shin, i.e. the middle third approximately of the right leg. The wound was symmetrically disposed downwards and outwards increasing in depth as it was laterally from $\frac{1}{4}$ inch to 1 inch on the outermost aspect. This wound severed almost 1 inch of the front of the tibial bone. This is the bone on the inner side of the leg leaving a wedge shaped sliver of bone half inch wide by one and a half inches long which

In the High Court projected upwards and appeared to have been broken from the proximal end of the tibia.

Prosecution Evidence

No. 4
Valance
Massiah
M.D.
17th May
1965
Examination
(Contd.)

Some impression of the force used could be estimated because there was 1 inch of bone cut through and one half inch snapped or broken. The fibula was not broken. The muscles of the anterior compartment of the leg were cut and the muscle behind the interosion membranes was cut apart. The anterior tibial vessels were severed. The posterior tibial artery was bruised. The whole was bathed in pus and the posterior tibial vein was the site of the thrombosis. There was thrombosis in the phemosal vein and in the external iliac vessels. I could find no thrombosis in the veins of the feet on the right side. I could find no thrombosis in veins of the legs on the left side. There was a massive ampullus 2 ounces approximately in weight in the pulmonary artery with extension into both bronchi. 10

The lungs weighed 392 gramms on the left and 364 on the right. There was partial collapse of the right middle lobe. The right lower lobe had collapsed and there was thickening of the pleural covering over the right lower lobe mainly in the area of the 7th, 8th, 9th and 10th ribs, posterially. The left lower lobe was moderately collapsed. The left upper lobe was well aerated. There was some degree of medium on the right upper lobe. There was no evidence of impaction or pneumonia in the lungs. The head was normal in weight and size. The heart muscle was healthy. There was no evidence of rheumatic disease or of syphyllis. The liver weighed 1386 gramms and was of normal colour. There was a small rupture posterially in relation to the 10th rib on the posterior side but the diaphragm over the liver was not incised so that this rupture could not have been a direct wound. 20 30

The spleen weighed 84 gramms. The pulp was soft and red consistent with sepsis. The stomach contained 6 ounces of a soup like material. No ulcers of the stomach. Pancreas and adrenons normal. Kidneys were of equal weight. 140 gramms on the left and 126 on the right - no disease. No evidence of degenerative changes in the arteries and veins except the vessels had intended posterior tibial on the right side of the extension upwards. 40

The brain was sedimentous. It showed some retention of fluid over its normal weight but there was no evidence of covering of the base of the brain as would be expected if there was a critical rise intra cranial pressure i.e. to cause death.

Death was due to massive pulmonary embollosis. An embollus may be defined as any clot or particle of fat or particle of cancer cell that become separated from a primary site in one part of a vein or artery and is transported in the circulation. This was due to thrombus arising in the deep vein of the right leg the site of an incised wound of the right leg associated with these was a wound on the right posterior chest wall severing several ribs and cutting 3 with collapse of the right lower lobe of the lung.

10

There was no apparent injury on the front of the body. There was no wound in the onscilla or arm pit extending across the front of the chest. If there had been such a wound I would have certainly have seen it.

Cross-examined by Johnson:

20

I would say that pulmonary emollism is an uncommon cause of death. Not unusual. It is possible that it could occur after an operation but it is regarded an unexpected tragedy. A massive embollus would cause death in a matter of minutes. i.e. from the time it accluded in the artery. The massive embollus I found was a septic clot. The wound in the process of healing became septic and inflammation was set up in the walls of the veins causing thrombosis and this propogated increasing thrombosis up the venous circuit and at some stage the thrombosis escaped from the morrhings.

Re-examination

30

The embollus arose from the site of the wound in the right leg. I found thrombosis no where else.

By the Jury: No questions.

By the Court

40

As a forensic pathologist I must identify the body, ascertain the time of death and the cause of death. It is necessary to carry out a minute examination of the body and order to do this. The body is examined externally and if there is clothing this is examined and then the Post Morten is carried out. It is a part of my function to consider the manner in which injuries are caused. The wound which were sutured were:

In the High Court

Prosecution Evidence

No. 4

Valance
Messiah
17th May
1965
Examination
(Contd.)

Cross Examination

Re-examination

By Court

In the High Court

Prosecution Evidence

No. 4

Valance
Massiah M.D.
17th May 1965
Re-
Examination
(Contd.)

1. The wound to the back was sutured. Some of the arteries had slipped and the wound had become septic. I did not make a note of the number of sutures. The wound was 12 inches on the back and 3 on the arm.

The bone on the leg was cut through and fractured. The leg was sutured. It was not in plaster of any kind when I examined the body. There was no need to reduce the fracture and so it would not have been necessary to place the leg in plaster. It was the embolism which arose in the region of this wound that caused death. I had an opportunity and I did ascertain the treatment which had been applied prior to my examination. Normal cleaning of the wound appeared to have been done and the patient was put on anti-biotic which is a routine treatment in the case of a septic wound and this seemed to have worked largely because the pus was seated in the depths of the wound. In my opinion I would say that the treatment was proper treatment and such as would ordinarily be expected to be prescribed and applied in a case of this sort. The patient appeared to have made progress. The embolism would not have arisen from the treatment. In my opinion it was due to sepsis and trauma and this can arise even though ordinary treatment is applied and administered.

10

20

Further Cross-examination

Johnson by leave:

The patient was progressing. In any case in which a man has suffered injury or trauma, the attending physician may not issue a certificate unless there has been a Post Mortem.

30

By Court

By the Court:

In my opinion a sharp cutting instrument would have caused the injuries to the back of the leg. An instrument applied with heavy enough force to cut through the deep muscle of the back and to cut 5 ribs and severe 3. The blow on the leg was forceful enough to cut through one inch of the tibia and break off 1/2 inch from the bone.

In my opinion it is most unlikely that the wound on the back could have been inflicted by a person facing the victim. In my opinion a brushing cutlass with a sharp enough blade could have been used to inflict the injury at the back.

40

Johnston by leave

The victim may have been facing. It would be impossible if the 2 men were facing each other for the blow to be dealt with in front. If the injured man was prone or seems prone lying on the ground could be dealt a blow by the assailant standing up administering a sweeping blow.

Tuesday 18th May, 1965

No. 5

Corporal G.M. Phillips

10

George McDonald Phillips on his oath says:

I am Cpl. 4752 attached to the C.I.D., Port of Spain. I am a qualified draftsman. I hold a diploma in draftsmanship from the International Correspondence Schools. Have been doing this work of a draftsman for over 10 years. On 8/10/64 about 11.45 a.m. I journeyed to Warrenville, Cunupia. I accompanied Cpl. Best. I was shown certain areas and was told something by Best. As a result I took certain measurements. I made a drawing of the measurements I took. This is the Plan I prepared. This is a key to the plan I made. I have made copies of the plan to be made available to the Court. Plan with key tendered and marked "G.P.1."

20

The Plan shows the Southern Main Road running in a north western direction. The plan shows Robert Trace adjoins the Southern Main Road running east to west. I met a man named Enos Davis who said that the house shown at "B" was his house. "A" specifies an electric lamp. The distance from "A" to Robert Trace is 55 feet.

30

Along the Southern Main Road there is house "C". "C" was pointed out to me as the house of Shaffie Mohammed. On the side-walk there is a spot pointed out to me where there were stains resembling that of blood by Cpl. Best and David Jacob. "E" is a soursop tree. "F" is a spot pointed out to me by David Jacob. "H" is a house pointed out to me as that of Ramnath Mohan, and "I" is another house

40

In the High Court

Prosecution Evidence

No. 4

Valance
Massiah H.D.
17th May 1965
Further cross-examination
(Contd.)

No. 5

Corporal
G.M. Phillips

18th May,
1965

Examination

In the High
Court

Prosecution
Evidence

No. 5
Corporal
G.F. Phillips
18th May 1965
Cross-
examination
(Contd.)

pointed out to me as that of Polo Jagroo. Certain measurements are shown on the plan. The part of the Southern Main Road is between the $6\frac{1}{4}$ - $6\frac{1}{2}$ mile stone.

Cross-examination

"D" is a spot pointed out to me by David Jacob. I saw stains resembling blood on 8/10/64. Neither of accused was present when this spot was pointed out to me. So also when "F" was pointed out to me. A wire fence separated "C" from "H". On the property of "H" there is a pepper tree. There is a side-walk in front of both "C" and "H". I think the fence is a barbed wire fence. 10

Re-examination: Declined.

By the Jury: No questions.

No. 6
Rafeeq Hosein
M.D.
(recalled)

No. 6
Rafeeq Hosein M.D. (recalled)

By Court

Rafeeq Hosein in his oath says in answer to the Court:

I was Casualty Officer on 21/9/64. I examined Mootoo Sammy at 10 p.m. on 21/9/64. I made notes at the same time. I did not attend to any of the wounds I saw. I administered emergency treatment. It was an intravenous drip. This was administered to resuscitate loss of blood. This is standard treatment. He was given morphia $\frac{1}{4}$ grain because he was restless. He was not unconscious. I dressed the wounds by sterile dressings. 20

With regard to wound No. 1 (witness refreshes memory). It was an incised wound on the right side of the chest extending from the right arm downwards in a posterior lateral direction. (Witness demonstrates the position of wounds). It commenced on the upper right arm and proceeded downwards on the right side up to left of the diaphragm. I did not outline the wounds. I do not dispute that the wound as described by the Pathologist, Dr. Massiah is properly described as going across the middle of the back. I agree that the description given by Dr. Massiah is different from the one I gave yesterday. The 30 40

testimony I gave yesterday would have been based entirely upon my notes taken at the time and not from my recollection. Assuming that Dr. Massiah's evidence as to the wound on the back is correct i.e. No.1 wound, then the opinion which I expressed yesterday as to the position of the assailant and the victim when the injury was inflicted would not be correct. I now say that I accept as more accurate than my own the description of the wound and its location as read to me by the Court as being the evidence of Dr. Massiah.

In the High Court

Prosecution Evidence

No. 6

Rafeeq Hosein
M.D.
(recalled)
(Contd.)

After I administered the intravenous drip the man was sent to the Ward. When I attended to the man I knew that this was the subject of police investigation. Wound 1 was a deep wound involving the ribs, the muscles of the pleura. The No.1 wound was a wound which was dangerous to life. The No.2 wound was also dangerous to life. i.e. the wound on the right leg was dangerous to life. I administered anti-tetanus serum and I also administered anti-biotic i.e. procaine penicillin for infection. This was proper and standard treatment for injuries of the kind I saw.

On the night of 21/9/64 upon a reference from Dr. Beckford I examined a man Deonath Ramnath. He was 19 years. He came in at 10.55 p.m. on 21/9/64 suffering from a superficial wound i.e. an abrasion of the scalp.

Cross-examined by Johnson:

Cross examination

Dr. Beckford was referred by the D.M.O. of Cunupia. He sent the patient to me with his findings. I do not quite remember if his findings co-incided with mine. I do not remember who brought me the certificate from Dr. Beckford. He was admitted to Ward 3. I sent the patient to the ward because the doctor had asked me to do so. I had not tried to find out how long Deonath Ramnath stayed. A laceration is difficult from an abrasion. An abrasion is a bruise of the superficial layer of the skin and a laceration is a break in the skin itself. I could describe a laceration of the scalp as superficial. I treated the abrasion I saw. I asked the patient if he had drinks. My note at the time was superficial abrasion of the scalp. I administered A.T.S. to be given the next day. The man was given an aspirin. I admitted the man because the doctor asked me to.

In the High Court

Prosecution Evidence

No. 6

Rafeeq Hosein M.D. (recalled) Cross-examination (Contd.)

The wound I described yesterday does not coincide with that described by Dr. Massiah. I would agree having regard to Dr. Massiah's evidence that I was mistaken in the description of the wound which I gave yesterday.

By Crawford with leave: Declined

By the Jury: No questions

No.7

O. Deane

No. 7
O. Deane
18th May 1965
Examination

OSCAR DEANE on his oath says:

10

I am a photographer attached to the C.I.D, Port of Spain. On 4/10/64 I went to Warrentville, Cunupia. I was accompanied by Cpl. Best. I reached there about 4 p.m. I took two photographs. I caused them to be developed. I made several copies. These are they. Tendered and marked "O.D. 1 - 2".

The first photograph was taken with the camera facing north. This picture shows a portion of the Southern Main Road at Warrentville, Cunupia in the left foreground. A portion of a two-storeyed building can be seen in the right back-ground of "O.D. 1".

20

The second picture was taken with the camera facing east. This picture shows a close up view of the front portion of the house referred to in the right background of "O.D.1". The pavement shown is the eastern pavement.

Cross-examination: No questions

No. 8

Valance Massiah M.D. (recalled) 18th May 1965
Examination

No.8

Valance Massiah M.D. (recalled)

30

VALENCE MASSIAH on his oath says upon being recalled:

When I performed the post-mortem examination it was approximately 23 hours after death.

Cross-examination by Johnson:

There was a healed index finger. It was 1 $\frac{1}{4}$ inches long. It was a superficial wound. It was a clean incised wound. I do not think it could have been caused by a barbed-wire. It was not a ragged cut. It was linear and evenly healed wound.

By the Jury: No questions

No. 9.

Deonarine Ragoobar

10 DEONARINE RAGOOBAR on his oath says:

I live at Warrenville, Robert's Trace. I remember September, 1964. I was on the road standing about 7.30 - 8.00 p.m. While there I saw Deonath Rannath i.e. the son, was wringing a boy's hand. I do not know the name of the boy. Myself and Johnson Rantahal and Mootoo Sammy were together. We were about 15 ft. away when he was wringing the boy's hand. We went up to him. Mootoo Sammy told Rannath that this boy is a cracked boy and why he was wringing his hand. Mootoo Sammy then snatched away the boy's hand. He said let go his hand. Mootoo Sammy chucked Deonath. This was on the road. Deonath chucked him back. Deonath told Mootoo Sammy that he was not a bad john and that he could not come back to Warrenville. Deonath rush to a cart which was parked near the road and he tried to get off a picket on the cart. He did not get off the picket. His father Rannath came up the same time. He asked Deonath what happen. Deonath did not answer. Rannath said "fix up then ass, don't frighten". Rannath came up with a cutlass in his hand. Rantahal told Rannath that a big man like him where he going with a cutlass. Rannath Mohan then said "Where is Mootoo Sammy, I am going to open his back". Mootoo Sammy then started to run towards the Southern Main Road. Mootoo Sammy was in front. Rannath Mohan was behind Mootoo Sammy and I was in the back of Rannath. When we reach on the Southern Main Road we ran south. I saw when Deonath came out from his father's yard. After Rannath came up to the boy and ourselves Deonath left. I later saw Deonath

In the High Court

Prosecution Evidence

No. 8

Valance
Massiah M.D.
(recalled)
18th May 1965
(contd.)
Cross-examination

No. 9

Deonarine
Ragoobar
18th May
1965.
Examination

In the High Court

Prosecution Evidence

No. 9

Deonarine Ragoobar
18th May 1965
Examination (Contd.)

coming out of his father's yard on the Southern Main Road. As soon as Mootoo Sammy reached approaching Rannath's yard he was running on the pavement. Deonath then came out of his father's yard and Mootoo Sammy turned back upon seeing Deonath. Deonath then made a chop with a cutlass upon Mootoo Sammy. I do not know which part of his body get chop but Mootoo Sammy fell down on the edge of the pavement. He fell at the pavement where a wire fence meet the pavement near the yard of Shaffie Mohammed which is next to Rannath Mohan's yard. Mootoo Sammy picked up a pitch oil tin. He fell sideways facing Shaffie's yard. While he way lying on the ground Mohan then made a chop while he was lying on the ground. I ran into Shaffie Mohammed's yard and I picked up a piece of wood. (Witness demonstrates) about 2 ft. long and I hit Deonath Rannath on his head while Deonath Rannath and his father Rannath were chopping Mootoo Sammy. Rannath then swing around behind me with his cutlass and I left and I ran home straight and I never looked back. I have known the two accused for the past 17 - 18 years. When I knew Deonath he was about 4 or 5 years old. I was running about 20 - 25 feet behind Mohan. I struck Deonath because he and his father were making chops at Mootoo Sammy while he was on the ground.

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Cross-Examination

Cross-examined by Johnston:

Deonath was wringing the hand of the boy. I stood up and looked on. Mootoo Sammy pulled away Deonath's hand. John Rantahal disappeared. There were several people there when the chopping up took place. I do not know where the people came from. The incident about the hand took place in Robert's Trace. I gave a statement to the police on the next day. It was the said week. I did not go to the police station. I told the police what I had seen. The police came to me.

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Mootoo Sammy in my Uncle-in-law. Robert Jacob and I live with two sisters. Mootoo Sammy's mother and my wife and Jacob wife are all sisters. Mootoo's mother is Nagan Sammy. There was a christening that evening at Enos Davis' home I attended. I was on the road. The christening started about 2 - 3 p.m. It was Enos Davis' child being christened. I remember Sundar Singh. He was a loader on Jacob's truck. He was at the christening. I did not see when he left.

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When Rannath came up Deonath was by the cart

taking out a picket. Mootoo had a car. It was below his mother's home. Mootoo had nothing. It was the noise he heard. There were about 20 - 30 people there. Johnson Rantahal spoke to Rannath.

In the High Court

Prosecution Evidence

No. 9

Deonarine Ragoobar
18th May 1965

Cross-examination
(Contd.)

10 I know Roodal. He was not drinking with me. Rantahal was not at the christening. He was not drinking. Mootoo was not at the christening. He did not drink with me. Enos Davis was there. I told the police that I saw Enos there. I did not see Rantahal pick up two stones. Mootoo did not pick up a piece of iron. I never chased the accused with a stick. It is not true that I with a stick Mootoo with a piece of iron and Rantahal with two stones chased Deonath to his father's house. It is not correct that while we were running that Deonath turned around and that Mootoo then hit Deonath on his head. It was I who hit Deonath on his head. I did not say that I hit him on the back of his head. Mootoo lived at Pasea. I live at Robert Trace. I live just above Enos Davis. 20 I live next to Enos Davis. Mootoo's mother lives on the Southern Main Road. She lives two lots from Rannath Mohan's house. I know Polo Jagroo. I did not see him at the time of the incident. I would not know where Jagroo was. There were a lot of people on the road. Rannath Mohan's wife - Deonath's mother. I saw the mother of the accused. I did not see Sundar Singh or Roodal Moonoo. He could have been there but I did not see him. There was more than five people. 30 It was not as much as 10 people. I would say there about six people. I lived there for about 17 years.

40 It is not correct that me and Rantahal and Mootoo chased Deonath to his father's home. It is not true that I had a stick and Mootoo had a piece of iron. It is not true that the father struck Mootoo on his leg with a poniard and that as he fell down Deonath struck the deceased in his back with a brushing cutlass. I do not remember how many days after this that Mootoo died. I did not go with Robert Jacob to the police. I went to see Mootoo in the hospital. I did not see Deonath in the hospital. I went there a few times. I did not see Deonath in the Ward. I saw Deonath make the first chop. Rannath never got to the house first. I did not see where the blows of Deonath and Rannath struck Mootoo. They made several chops. I went in Shaffie's yard and I hit Deonath on his head. The police never told me that Deonath said that Mootoo hit him in the head. Rannath had a straight cutlass. It is about 20 inches long. I was a straight cutlass. Deonath had a brushing cutlass. By Enos House Mootoo ran.

In the High Court

18.

Prosecution Evidence

No. 9

Deonarine Ragoobar
18th May 1965
(Continued)

Re-examination

Re-examination:

Mootoo Sammy was at my house. I could see the back portion of Mohan's house from Robert's Trace. If one spoke in Robert's Trace the noise could be heard at Mohan's yard. I could see Nagam Sammy house from my house. There is rice land so if a person wanted to go other than on the Southern Main Road from my house a person could go by the rice lands. The rice land was then dry land.

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By the Jury: No questions.

No. 10

Robert Jacob
Examination
19th May 1965

No. 10

ROBERT JACOB

19th May, 1965

ROBERT JACOB on his oath says:

I live at Warrenville, Cunupia. I live in Robert Street. I am a proprietor and I have my truck working. On 21/9/64 I was at home. That evening around 8 - 8.15 p.m. I was in my house. I was in my drawing room. I heard a noise on the eastern side of my house. My house faces south. It is around 14 feet from the road on Robert Trace. I heard the voice of Innis David. I went to the gallery from the drawing room. I saw the father Ramnath Mohan. He was going from the western side of Robert Trace to the eastern side where the noise was. Robert Trace runs east and west. My house light was on. I saw the accused whom I called Heyla. I have known him for 20 - 25 years or more. I spoke to No. 1 accused Mohan when he reached abreast of me. I told him not to go down there and put himself in trouble. The accused then said "I am going to open his back". The accused Mohan had a cutlass in his hand - a poniard (witness demonstrates). He was holding it behind his back in his hand holding the handle and the blade was pointing upwards. I told the accused to come here to me and don't worry to go there. He did not worry with me. Ramnath went down to the eastern side just where

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the talking was. A few seconds after I saw a few persons running in a westerly direction along Robert Trace coming to me. When they reached abreast of me I saw Mootoo Sammy running in front and I saw Heyla running behind Mootoo Sammy with a cutlass upraised about 20 - 25 feet behind Mootoo Sammy. I again spoke to Heyla. I called him back and he said "I am going to open Mootoo back tonight." They ran in my yard and they ran back out into the road. I was then still in the gallery. They ran by a small almond tree I had, and they continued down the road in the western direction. Running behind Ramnath Mohan was Deonarine Ragoobar about 35 feet behind. (Deonarine identified.) They ran into the Southern main road from Robert Trace. I then called out to my wife who was then about 50 feet away from me on the road. I ran down the step and I ran in the direction in which the men had gone. I stood up near Rupert Thompson's house on the Southern Main Road where there is a pole light. I saw some people by Ramnath Mohan's house - about 7 or 8 people. I could not recognise anyone. I was a distance of about 100 feet away. After that I heard the voice of the deceased Mootoo's mother. My son, David Jacob came up and met me under the light. He came from the direction of the crowd of people. We spoke, I then ran back home and I give my son the key for my jitney. Me and my son then joined the jitney and we went to the spot where Mootoo Sammy was lying down. The spot was about where I had seen the crowd. I went and helped to band him up. I saw a cut on his side. It may have been the right or left side. He had some cuts on his hand. When I got to the Beetham Road, I saw that his foot was chopped. I took him to the General Hospital. When I saw Mootoo Sammy running he had nothing in his hand. I did not see Deonarine with anything in his hand. Mootoo Sammy was admitted to the hospital. He subsequently died. I visited the mortuary. His mother was also there and I saw a post-mortem examination performed by Dr. Massiah.

In the High
Court
Prosecution
Evidence

20.

Cross-examined by Johnson:

No. 10

Robert Jacob
19th May 1965
(Continued)

Cross-
examination

I would not say I am a big proprietor. I have a truck. I gave a statement to the police on the 2nd or 3rd day. I do not remember the date I gave a statement to the police. I would accept that it was 26th September, 1964. Deonarine and I marry two sisters. Mootoo Sammy is my wife's sister's son. On 21st September, 1964 Deonarine lives on my land on the Robert Trace. It is the house after Enos Davis. Mootoo lived at Pasea Village. On 21/9/64 Mootoo was at the home of Deonarine. Robert Trace runs east to west. The western side of the Trace joins the Southern Main Road. The Trace goes on only two lots from Enos house. There was a rice field opposite Enos Davis land. I do not remember if Ramnath was the tenant of the rice field on 21/9/64. There was no ricefield there on 21/9/64. All along Robert Trace on my side there are houses. On the other side there are only two houses. My side is on the northern side of Robert Trace. There are 3 lots and then my house.

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I do not remember if I went to Caroni that day. David Wint owed me some money on that day. He and I had no quarrel that day about the money i.e. \$3.00. I do not drink. I was not drunk on that day. It would be wrong to say that I was drunk and that I insisted on getting my money. I was not taken home by anybody. I asked him for my money and he paid me on 21/9/64. It is not correct that I was so drunk that I forgot that I was paid and that I made further demands on him. I know what a panchait is. We never had a panchait in this case. I am quite sure of the order in which I saw the men running. Mootoo was not chasing Ramnath. Deonarine was not following Mootoo as you suggest. Deonarine and I never discussed this case. I had not discussed it with anybody else. Ramnath had a poniard. He did say that he was going to open the back of Mootoo. He was not in any noise up the road. My daughter is married to the son of Ramnath's sister. I do not know Ramnath to be a man of violence. I would say that he is well respected by everybody. I never knew that Mootoo was involved in anything with anybody.

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10 He did not tell me whose back he was going
to open. I ran out to see what was going to
happen. Thompson's house is on the southern
side of the Robert Trace. His house is about
100 feet away. I ran to the Southern Main Road
where I stood up outside the light pole. I did
not go any further. I do not know if the
mother of the deceased came up after. Ramnath
used to work with me. I had no quarrel with
him. I know Sundar. He was not working with
me at the time. He has not been working with
me for 3 years. I know Sundar very well. I
know a man called Roodal Moonoo. I did not see
Moonoo that evening. I did not see either of
them before I gave my statement to the police.
I did not see Deonarine before I did so. I saw
Mootoo's mother before I gave my statement. I
did not see Deonath that night. I did not see
20 Mootoo with anything in his hand. He did not
have a piece of iron. It is not true that I
was under the influence of drink. What you suggest
to me sounds funny to me. I took the deceased to
the hospital. It was a big cut. I came up with
my son and took him to the hospital. Deonarine
did not tell me that he saw them chopping up the
man. I always see Deonarine. I did not ask
anybody about what happened.

Re-examination:

Re-examination

30 Somebody spoke to me about what happened
up the road. From where I live I can see a part
of Ramnath's house. I can also see the house
of Mootoo Sammy's mother. I can shout from my
house to the house of Ramnath.

By leave:

There was a christening that day at Enos
Davis' house. I still saw people there on the
Monday.

Johnston by leave:Further cross-
examination

40 There was moonlight that night. I do not
know if it was full moon.

By the Jury:

In the High
Court

22.

Prosecution
Evidence

By the Court:

No. 10

Robert Jacob
19th May 1965
(Continued)

By Court

My daughter is married to Ramnath's sister son. We have known each other since we were boys. We worked together in the Estate. He has worked for me whenever I had work. Up to last year he dug a drain for me. Ramnath and I knew each other well, Ramnath and I have always been on good terms. We have never had any quarrel. Deonath and my boy are friends. Deonath has helped me to do work at my yard.

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I know David Wint. I spoke to Wint about 5 o'clock in the afternoon. I was on the road. He was at Davis' house. I called him out and he came and spoke to me and he gave the money. It was \$2.00 and something or \$3.00 and something. The incident occurred 8 - 8.30 p.m. I would say that we left to go to the hospital about 8.45 p.m. Myself and my son went to the hospital. My son drove the jitney. Some other men were in the jitney. About four of them.

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No. 11

Nagma Sammy
19th May 1965

Interpreter
Sworn

No. 11

NAGMA SAMMY

NAGMA SAMMY: on her oath says:

Crawford says that the witness does not speak English. She speaks Hindi.

The Interpreter named Rasul Udean sworn on the Koran and states:

I live at Sun Valley, Santa Cruz. I am a taxi driver. I am conversed with the Hindustani Language, Spanish and English. I speak these languages. From the year 1956 I have been the Interpreter for this Court. I have been employed from time to time, to interpret evidence given in the courts and I have interpreted from Hindustani into English and vice versa.

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Cross-examination: Declined

Interpreter's oath administered to the Interpreter Rasul Udean by Court Clerk.

NAGMA SAMMY through the Interpreter Rasul Udean sworn states on her oath as follows:

In the High
Court
Prosecution
Evidence

No.11

Nagma Sammy
19th May 1965
(Continued)

Examination

My name is Nagma Sammy. I live at Warrentville. I work in the estate. My son was Mootoo Sammy. He was living at Pasea. On 21/9/64 I saw my son. I saw him at my home at Warrentville. It was near to a quarry mill on the Southern Main Road. I saw my son about 4 p.m. He was with his family. His wife and children. He came by car that day. The car was kept at my home. He left and went to my sister's home about 6.00 p.m. She lived at the back of my house. There is a track but no road. After that I again saw my son about 8 p.m. I heard a noise in the back of my house. When I heard the noise I was going to my sister's home. I went by the Southern Main Road to go there. That is coming towards Port of Spain. As I came on the road and was going on my way I saw Deonath standing by a pepper tree. (Deonath identified). It was in the property of Ramnath that I saw him by the pepper tree. I was about 8 - 10 feet away from the pepper tree. One Shaffie lives next to Ramnath on the Port of Spain side and one Jagroo lives on the San Fernando side. When I passed Shaffie's house going in the Port of Spain direction I saw two persons running and passed me going in the San Fernando direction. I recognised my son running and I recognise Dailah running behind him with a cutlass. Ramnath is Dailah. Ramnath had a raised cutlass in his hand. When I saw that I turned around and I shouted Mootoo was about by the wall (witness demonstrates) about 25 feet away and Dailah was about 10 -12 feet away from me. While I was bawling I saw Deonath come out from his father's yard and he struck my son on his foot with a brushing cutlass. My son was on the road by Shaffie. When Deonath came out he chopped my son on the road. When Deonath chop him my son fell. Ramnath also reached there. Both of them then started to chop my son and I went and held on to Deonath. Deonath pushed me off

In the High
Court
Prosecution
Evidence

No. 11

Nagma Sammy
19th May 1965
Examination
(Continued)

24.

with his into the road. While Mootoo Sammy was on the ground he was holding onto a tin. It was a garbage tin. He was holding the tin, I was shouting and the accused was chopping him. He was barring some of the blows with the tin. I was shouting until people arrived. When I saw Mootoo Sammy running he did not have anything in his hand. After they were chopping Mootoo Sammy Deonarine then struck Deonath with a stick on his head.

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Objection

Johnston objects to this evidence on the ground that it is fresh evidence and says that witness should not be allowed to give it. Objection overruled.

I did not see when Deonarine come up but I saw when he struck Deonath with the stick and I saw Deonath run Deonarine with the cutlass. I saw when Roodal came and fell on Mootoo. Roodal lives near to us at Warrenville. Dailah had raised his hand to strike again and Roodal came and said "I am Roodal" and Dailah restrained his blow. Deonarine ran towards the San Fernando side. Mootoo Sammy had cuts on his body. He was taken to the hospital.

20

On 5/10/64 I went to the mortuary and I saw the body of Mootoo Sammy there. Robert Jacob was there. I identified the dead body of Mootoo Sammy to the doctor. I live 2 houses away from where Mootoo was chopped going towards San Fernando. There was a light about 30 - 40 ft. from where my son fell and it was moonlight.

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Adjourned to 11.30 a.m.

Cross-
examination

Cross-examined by Johnston:

I can understand English, but I cannot speak the language. I gave my statement to the police the very week. It was the very week of incident. Robert Jacob is the husband of my smaller sister. Deonarine is also married to my younger sister. Deonarine lives next to Enos Davis on Robert Trace. You can go by a track behind my house to my sister's house. I did not go by the track because it was night. It was full moon

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on that night. I went by the Southern Main Road. I did not stop. I was continuing. I had gone about 40 - 50 ft. pass Rarnath's house. I had already passed Rarnath's house when I saw the two persons running. It was when I passed the house that I saw 1 - 2 persons. They would come to Shaffie's house first. I did not see Deonarine at that time. I was alone when the chopping started but people came afterwards. I did not speak to Jacob before I gave my statement to the Police. I did speak to Jacob about the incident after that. I did not discuss the case with Jacob up to the time I went to the hospital. I did not discuss the case with Deonarine. We did not come to Court today. We came by separate conveyance. We met in the witness room today. I did not leave with Robert and Deonarine yesterday. Deonarine did not tell me that he struck Deonath. I do not know where the blow struck when Deonarine struck Deonath. I have a son, he was the only son, I loved him very much.

I saw Dailah chase Mootoo with an upraised cutlass. I did not hear Rarnath say that he was going to open Mootoo's back. I did not hear him say anything. I was not thinking about anybody who came up. I saw Deonarine and Roodal. I did not see who came up soon after the incident.

It is not correct to suggest that I was not there when this happened, nor that I only assisted to take him to hospital. I was present when it happened.

(Note: /Upon being asked whether it was correct to suggest that I was not there that I only came up after the incident, the witness said both "yes" and "no". Upon the suggestion being put at the instance of the court the witness gave the above reply/.

Re-examination: Declined.

By the Jury: No questions.

In the High
Court

Prosecution
Evidence

No. 12

Sundar Singh
19th May 1965
Examination

26.

NO. 12

SUNDAR SINGH

SUNDAR SINGH on her oath says:

I live at Warrenville. I am a watchman at the Irrigation Department. On 21st September, 1964 I was in at Davis's house in Robert Trace. I was there about 4.30 - 5.00 p.m. I left the house about 7 p.m. and I went home. After I went home I came back out and at about 8 - 8.30 p.m. I saw Mootoo Sammy and Roodal going up to their house going south. I saw Deonath Rannath with a cutlass. He made a chop at Mootoo Sammy and he fell on the ground. I saw Deonath come from inside his father's house. Rannath Mohan was also there. When Mootoo fell Deonath made several chops with a cutlass and Mootoo breaks it with a pitch oil tin. Deonath was on the road chopping him. Rannath came up after. I had known the accused for 20 years or more. When Deonath was chopping Mootoo, Roodal went over and said "don't chop him anymore he would die". Rannath then came with a cutlass. After that I left and turn back and go home. I did not see Mootoo with anything in his hand. Mootoo and Roodal was walking along the road side by side.

10

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Cross-
examination

Cross-examined by Johnston:

I have known Jacob for a long time. I used to work for Jacob before. I went to the police the same night I gave the police a statement. I know the mother of Mootoo. I did not speak to her.

30

Re-examination: Declined.

By the Jury: No questions.

27.

NO. 13

DAVID JACOB

In the High
Court
Prosecution
Evidence

No.13

David Jacob
19th May 1965

Examination

DAVID JACOB on his oath says:

10 I live at Warrenville. Robert Jacob
is my father. On 21/9/64 I was at home.
About 8 - 8.30 p.m. I was at home. While
there I heard a noise on the northern side
of my building. My building is not eastern
side of Southern Main Road. I came out
and went to the landing. I saw a crowd on
Robert Trace. People were quarrelling.
After that I spoke to my brother. I ran
out from the back to the front of my house
on to the Southern Main Road. There was
a gathering in front of the accused house.
Rannath's house. I went up to the gathering.
I saw Dailah with a cutlass facing north.
It was a straight cutlass. He had it in
his hand. I told him give me the damn
20 cutlass man. I took the cutlass from him.
I gave the cutlass to Dailah's wife. I
saw Deonath with a brushing cutlass coming
towards me. I said "Give me the damn cutlass
boy" and he said "Look how they burst me
head". He threw the cutlass into the
father's yard. There was a gathering in the
yard of Shaffee. I saw Mootoo Sammy lying on
the ground. I went to my father's home and
I took Mootoo to the hospital. I drove the
30 van. I saw there were some stains on the
ground resembling blood.

Cross-examined:

Cross-examination:

I am the son of Robert Jacob. I did
not see Deonath's head bleeding. I was
right in front of his father's house on the
pavement. I did not see any burst on
Deonath's head.

Re-examination: Declined

By the Jury: No questions.

In the High Court

28.

Prosecution Evidence

NO. 14

DAVID JACK, P.C.

No.14

DAVID JACK on his oath says:

David Jack,
P.C.
19th May 1965
Examination

I am P.C. 5341 attached to C.I.D., Port of Spain. On 21/9/64 I was attached to Cunupia. About 9.30 p.m. that evening I received a telephone message. I then went on to the Southern Main Road at Warrenville I reached there about 9.45 p.m. I went near the home of Rammath Mohan. I observed that there was a stain on the eastern pavement resembling blood about 6 yards from the house of accused. I spoke to Rammath Mohan. I told him that I was investigating a report in which it is alleged that he and his son chopped one, Mootoo Sammy. I told him that he was not obliged to say anything and that whatever he said may be given in evidence. He gave a statement which I recorded in writing. I used no threats or force. I held out no promises to him. I took what he said in writing. I read it back to Rammath and he appeared to understand what I read. He made his mark. This is the statement Rammath gave. Statement tendered.

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20

"D.J.1"

No objection: Admitted D.J. and marked D.J.1 - (Statement read to the jury).

On 22/9/64 about 12.30 p.m. I saw Deonath Rammath at Ward "B" of General Hospital, Port of Spain. I told him that I was investigating a report in which it was alleged that he and his father chopped one Mootoo Sammy and that he was not obliged to say anything but whatever he said would be given in evidence. Deonath elected to give a statement which I took in writing. I used no threats or promises. I read it over to him. He said that it was true and correct and he signed it. Statement tendered. Admitted and marked "D.J.2". (No objection by Johnston).

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"D.J.2"

While I was at hospital Deonath Rammath handed me a medical form. I took possession of it. This is the medical form given to me by Deonath Rammath. Tendered and marked "D.J.3". I continued further enquiries and I handed over the matter to Corporal Best.

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"D.J.3"

Cross-examinedProsecution
Evidence

No. 14

David Jack,
P.C.
19th May 1965
(Continued)Cross-
examination

10 I interviewed Rannath on the following day. I know that he made a report to the police station on the night of 21/9/65. He obtained a form from Dr. Beckford. I did not try to ascertain the doctor who attended to him. I did not try to ascertain when he was discharged from hospital. I saw him 2 - 3 days after when he came out. I saw the accused at Chaguanas. I did not ask him anything. I went to the home of Rannath Mohan. I told him that there was a report that he and his son chop Mootoo. I asked Rannath to show me his cutlasses. He said that he had no brushing cutlasses. I saw no cutlasses. I did not see 4 cutlasses. He showed me none. I did not ask his son about cutlasses.

Re-examination: Declined

20 Johnston by the leave: I did not take a statement from Enos Davis.

Further Cross-
examinationNO. 15RAMLAL SOOKNANAN

No. 15

Ramlal
Sooknanan
19th May 1965RAMLAL SOOKNANAN on his oath says:

Examination

30 On 21/9/64 I lived at Charlie Village, Chaguanas. I am 16 years old. That day I was at Roberts Trace around 6 p.m. While there about 6.15 p.m. a boy named Deonath No. 2 accused - He told me that he wanted a cigarette. I tell him that I doesn't smoke. I had a packet of cigarette in my pocket. We spoke about the cigarettes I had. He slapped me in the face. Mootoo came up and he asked Deonath why he slap me in my face. Deonath said "Is wha happen you is a bad john". Mootoo said that he is no Bad John. I saw Rannath with a cutlass. He ran Mootoo Sammy around with the cutlass in the road.

Cross-examination: Declined

40 By the Jury: Declined

In the High
Court

Prosecution
Evidence

No. 16

David Jack,
P.C.
(recalled)
20th May 1965
By Court

30.

NO. 16

DAVID JACK, P.C.
(recalled).

Thursday 20/5/65

DAVID JACK on his oath says upon being recalled
by the Court.

I saw the accused Deonath Rannath at the
General Hospital, Port of Spain, about 12.30
p.m. on 22/9/64. I saw a wound on Rannath
head when I went to the hospital. He had a
plaster on his head when I saw him.

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Cross-examined by Johnston: Declined

Re-examined by Crawford: Declined

No. 17

Roodal Moonoo
20th May 1965
Examination

NO. 17

ROODAL MOONOO

ROODAL MOONOO on his oath says:

I live at Warrenville, Cunupia. I work as
a groom at Caroni Estate. I remember 21/9/64.
I was at Robert's Trace. While there Deonath
and Mootoo Sammy had an argument about his boy.
This was about 6.30 or 7 p.m. After the argument
Deonath came out and Mootoo Sammy spoke to him
about lashing the boy. Deonath appeared to me
as though he had in a couple of drinks. I
spoke to Deonath myself and I told him let us go
home. I told him to let us go home and he left
and walked out to the Southern Main Road,
towards his father's house. A little while
after himself and Mootoo Sammy left Robert Trace
to go to the Southern Main Road by his mother's
house for his motor car. When we reached
Deonath's father's house, Deonath chopped Mootoo
Sammy with a brushing cutlass. He tried to run
in Shaffie's yard and Rannath Mohan made a
chop at him also. Mootoo Sammy was then lying
in Shaffie Mohammed's yard. Mootoo had nothing
in his hand. I never saw Mootoo with anything

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In the High Court
Prosecution Evidence

No. 17

Roodal Moonoo
20th May 1965
Examination
(Continued)

10

in his hand. I went to Mootoo Sammy's assistance. I took his mother's orini and I tried to wrap the wound. I heard a voice say "Look out Roodal" as I looked I saw Rannath Mohan with a poniard coming towards me with a cutlass and I said "Oh God Ran is ne Roodal". I then leave there and ran up the road. I went in Mootoo's car and I stopped and reported the matter to the police.

Cross-examined by Johnston:

Cross-examination

The quarrel with Mootoo was in front of Deonath's house. Mootoo Sammy spoke to Deonath about the lashing of the boy. I spoke to Deonath. I cannot say if anybody else spoke to him. We walked along the Southern Main Road. The boy give him one and the father give him another.

Re-examination: Declined

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By the Jury: No questions

By the Court: I look after horses.

By Court

30

Myself and Mootoo were walking alone. Side by side. We were walking. While I was walking with him I saw his mother. I was walking quickly with Mootoo Sammy. I can't remember seeing anybody on the road. I saw Deonath come out of his father's yard with a brushing cutlass in his hand. We were a couple feet away from Deonath's father's yard. We continued walking until he strike Mootoo. Mootoo's mother passed us. I turned back in her direction. I saw Rannath chop Mootoo Sammy. I saw Rannath in Shaffie's yard.

In the High Court

32.

Prosecution Evidence

NO. 18

CORPORAL F. BEST

No. 18

FRANK BEST on his oath says:

Corporal F. Best
20th May 1965
Examination

"O.W.1"
"O.W.2"

I am a corporal of police. On 4th October 1964 I received a message from Cunupia Police Station. As a result I went to Warrenville, Cunupia. Sgt. Dean accompanied me. We went to one Shaffie Mohammed's house. Sgt. Dean took photographs. These are photographs "O.W.1 and 2". The picture O.W.1 shows a portion of the Southern Main Road with a pavement. I recognise the house of Shaffie Mohammed. No. 2 photograph is a picture of the same house and it shows a pavement and the entire yard. Before Shaffie's house is the house of Rannath Mohan the No. 1 accused. On 5/10/64 I went to the mortuary at Port of Spain. Nagna Sammy was there. I saw Dr. Massiah perform a post mortem on the body of Mootoo Sammy. The body was identified by Nagna Sammy. I saw both accused on 4/10/64 between 8 - 9 p.m. I told the accused that Mootoo Sammy had died at the General Hospital, Port of Spain on 4/10/64, and that I was charging them with murder. I cautioned the accused. I read over the statements which the accused gave. Deonath said that his statement was correct and he signed it. This is the statement of Deonath Rannath. Tendered and marked "F.B.1". (Statement read in open Court). Rannath also made a statement. He made his mark. Tendered and marked "F.B.2".

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"F.B.1".
"F.B.2".

On 8/10/64 I again went to Warrenville. I was accompanied by Cpl. Philip. I pointed out certain things to him and on my instructions Cpl. Philip made a plan of the area. I know Robert Trace. On the northern side of Robert Trace there are six houses. I know where the house of Enos David. "A" is the house of Enos David. I know where the house of Deonath Mohan is. The house of Deonath Rannath Mohan. It is marked "H". There is no rice field along Robert's Trace. There are four houses on that side. There are no houses opposite Enos Davis. The land is used as garden land. I showed Cpl. Philip the house of Shaffie Mohammed marked "C" on the plan. The house of Fagroo marked "I". I showed him a street light. It is

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33.

marked 4. That is all I showed Cpl. Philip. I pointed out a pepper tree to Cpl. Philip. It is in the yard of Rannath Mohan. It is marked "G".

In the High Court
Prosecution Evidence

No. 18

Corporal F. Best
20th May 1965
Examination
(Continued)

Cross-examined by Johnston:

Cross-examination

10 There are several houses on Robert Trace. I know the house of David Jacob. I know the house of Deonarine Ragoobar. The Trace is East to West. Davis house is after Deonarine's house going East to West. Deonarine is East of Davis. Jacob would be going West. There are many houses on the Southern Main Road, before one reaches the house of Rannath.

Re-examination: Declined

By the Jury: No questions.

CASE FOR THE PROSECUTION CLOSED

NO. 19

COURT NOTES

No. 19

Court Notes
20th May 1965

20 Johnston submits on the authority of R v Young (1964) 2 All E.R. that having regard to the unsatisfactory nature of the evidence that the Court might consider directing the Jury to acquit because the Crown had not led satisfactory evidence. Submission Overruled.

Rannath Mohan informed of his rights to lead a defence.

30 Rannath Mohan elects to give evidence on oath.

Defence Evidence

NO. 20

No. 20

RAMNATH MOHAN

Rannath Mohan
20th May 1965
Examination

RAMNATH MOHAN on his oath says:

In the High
Court

Defence Evidence

No.20

Ramnath Mohan
20th May 1965
Examination
(Continued)

Deonath Ramnath is my son. I am 50 - 60 years. On 21st September, 1964 around 11.15 p.m. I saw a constable called David Jack. I gave him a statement. That statement was not true. I was afraid and that is why I gave him that statement. I had not hitherto been charged with acts of violence.

I saw my son that day home at me. I saw my son bleeding. I was in my house and I saw him bleeding from his head. When I saw my son bleeding I heard him making noise under the house. I put on the downstairs light. When I was coming downstairs, I saw Deonarine Roodal Moonoo and Mootoo Sammy and Johnston Rantahal. They were standing by the road. Mootoo Sammy was in front and he had an iron about as long as my arm. Deonarine had a stick. I did not see Roodal with anything. Johnson Rantahal had two stones. As I came down Mootoo Sammy walked into my yard with the iron. He rushed me with the iron and he made a lash at me. I picked up a poniard and I made a lash on him and it catch him on his foot and he ran out the yard and he went to the pavement. The balance ran also. I did not see my son do anything. I did not see where he went. 10

Cross-
examination

Cross-examination by Crawford:

This happened about 8.30 - 9 p.m. I was not on Robert Trace that night. Robert Jacob I know he is my family. I have nothing against him. I was never on Robert Trace. It is not true that I had a cutlass in my hand. I never told him that I was going to open Mootoo's back. Jacob is lying on me. I never heard that Mootoo Sammy and my son had a quarrel in that trace that night. I could see Robert Trace from my house. That night I heard no one talk at Robert Trace. My son was not involved in that talk. At about 8 p.m. my son was home at my house and he stayed there until 8.30 when this thing happened. He came home about 8.30 - 9 p.m. My son does not live at my house. I first saw my son between 8.30 - 9 p.m. I delivered one blow. When I did so Mootoo ran 30

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10 out of the yard. I was in the yard when I delivered the blow a little way from the step. It was a straight cutlass. It is the length of my arm. I was 3 feet away from him. The blow caught him on his foot. It was after he made me the lash I escaped and I then lash him and I get him in the foot. Mootoo still had the piece of iron he ran out of the yard. After I made the blow I went below my house. I did not see any blood where the blow was made. It not a hard chop I made. I threw the cutlass in the yard there. After I see him run and go in the pavement I threw away the cutlass. I did not give the policenan any cutlass because the policenan did not ask me for my cutlass and so I did not give the policenan. The cutlass was right on the step. I stood up under the house after I made the blow.

20 Mootoo went near Shaffie's place. I never saw Nagna Sammy there that night. I only saw her when the people come to make noise about Mootoo got chopped in the road. Mootoo did not get chop in the road. I did not see my son on the scene when I chop Mootoo. When I chopped Mootoo my son was below the house. He did not do anything. My son did not leave and go out the road at that time. He did not leave after I chopped Mootoo Sammy. I know about only one wound, that is the one I chop. I did not see anybody chop

30 Mootoo Sammy. I told the police what I did because I was afraid.

(Interval)

RAMNATH MOHAN continues on his oath under cross-examination:

40 After I chopped Mootoo he ran out of the yard and went on the pavement about 10 feet. After I chopped him I turned back and I went below the house. My son was there below the house with me. I saw Sammy on the pavement. I did not see if anybody came up to help Sammy. I did not see anybody come to Sammy. I saw no one else with a cutlass but myself. Before Mootoo make a blow nobody said anything. I ask Deonarine why they pelt my house for. Deonarine told me that he come to beat me. After Mootoo got the chop Deonarine ran. Deonarine and the others came at me. After

In the High Court

Defence Evidence

No. 20

Ramnath Mohan
20th May 1965

Cross-
examination
(Continued)

In the High
Court

Defence Evidence

No.20

Ramnath Mohan
20th May 1965
Cross-
examination
(Continued)

I chopped Mootoo Deonath remained under the house. It is not true that my son and Mootoo started to fight. I tell the police what happen. It is not true that my son and Mootoo had a fight. It is not true that I saw Mootoo bleeding after the fight. People came and take him up from where he fell. I did not look to see if there was blood. I did not see my son with a cutlass. I did not see my son use any cutlass on Mootoo. It is true that my son chop Mootoo Sammy that night. I did not see my son chop Mootoo Sammy that night. My son lives a good way from me. This thing happen in front of the step. The cutlass was there by the side of the step. I just pick up the cutlass which was by the step. I throw it there so I pick it up. Johnston Rantahal pelt my house. I never told the police that it was Mootoo who pelt my house. I now say that I do not remember if I said that to the police. I cannot say if Mootoo pelt stones. 10

Mootoo's nother lives two lots from ne.

Deonath Ramnath will not exercise his right to cross-examine the witness.

Re-examination: Declined

By the Jury: No questions

By Court

By the Court:

I now say that I saw my son chop Mootoo. I saw him cut Mootoo with a brushing cutlass. I cut him and then he was falling down and then my son cut him. I was afraid to show the policenan the cutlass. I never saw the cutlass after that night. I did not see Deonarine hit my son. 30

No. 21

Deodath Ramnath
20th May 1965

NO. 21

DEODATH RAMNATH

Deonath Ramnath informed of his rights to lead a defence and he elects to give evidence on oath. 40

DEONATH RAMNATH on his oath says:

In the High
Court

Defence Evidence

No. 21

Deodath Ramnath
20th May 1965
Examination
(Continued)

10 On 22/9/64 at about 12.30 p.n. I was in Ward 3 of the General Hospital, Port of Spain, I saw P.C. David Jack and I give him a statement. I was then suffering from a head injury. Only certain parts of the statement are true and other parts are not true. I told the police untruths because I was afraid. I was afraid that I would be arrested for chopping Mootoo Sammy so I withheld the truth and I lied. I remained in the hospital for 4 days. I reported to the Police on the night.

I was sent to the D.M.O. It was Dr. Beckford. He sent me to the nurse for dressing. She did not dress my wound. We left and we went to the Port-of-Spain hospital where I remained for 4 days. I was treated by Dr. Hosein. He sent me to Ward 3. I was attended to by a doctor. I went for an X-Ray.

20 On 21/9/64 at around 8 - 8.30 p.m. there was a christening at Davis. I live about $\frac{1}{2}$ mile from my father. I went to the christening from my house. At the christening about 8.30 - 9 p.n. I left Davis house and I was coming out. I met a little boy whom I knew. I spoke to the little boy and told him to come and go home. It was just the house people and one or two other persons. I held the boy's hand. I saw Deonarine Ragoobar. He came from his house. Mootoo

30 Sammy told me what I wringing the boy's hand. I told him that I did not do so. He told me that when I drink my rum I does play bad John and thing and that he would pull me down. He left and he went to his car which was in front of Deonarine Ragoobar's house. Mootoo went to the car and picked up a piece of iron. I turned back and I was going and he struck me with the iron on the nole of my head. I saw Johnston Rantahal with 2 sticks. I saw Roodal Moonoo with a stick.

40 Also Ragoobar. They ran me down. I ran to my father's house. They followed me. My father never came up with a cutlass. He never said anything. When I ran in my father's yard they started to throw stones. I was bleeding. I went under my father's house. They threw stones on my father's house. I was bawling. I did not see what happen. I did chop Mootoo. He rush me to hit me

In the High
Court

Defence Evidence

No. 21

Deonath Rannath
20th May 1965
Examination
(Continued)

Cross-
examination

and I chop him on his back. I see my father chop him. I do not remember who chop first whether it was my father or me chop first. I chop him under his arm. I never saw Sundar Singh. Negan was not there. Roodal leave and run.

Cross-examination by Crawford:

Mootoo came to fight me that day. I saw Mootoo's car parked before Ragoobar's house. I did not see my father come to Robert's Trace. People pass through the land on Robert's Trace to get to my father's house. I have never done so. Dr. Beckford merely examined me. I never gave this medical report to the police constable I never gave P.C. Jack the form "D.J.3". I do not remember if Dr. Beckford gave me a report form. I gave P.C. Jack a statement. It was 12.30 p.m. on 22/9/64. In the statement I had said that it was Deonarine Ragoobar who had chopped Mootoo Sammy. That is not true. That is the only lie in the statement. Everything else in the statement is true. After Mootoo struck me he chased me. It is not true that I went to my father's house and hide. I never went there to hide, and I did not hide. I went under the house for rescue. My father's house has no back step. They threw stones at the house. My father came down Mootoo, Ragoobar, Rantahal rushed under the house while he was downstairs. There was a cutlass under the house. I picked it up. Mootoo turned back and ran towards the yard. I chopped him while he was backing me. It is not true that my father came to Robert's Trace. I was not hiding in the pepper tree. My father gave one chop and I gave one chop. My father chopped first. He chopped him on the foot. After my father chop him on the leg he ran and fell. I chop him after my father chopped him. I did not see Nagna. I did say that my father had done nothing. I was afraid of him.

Re-examination: Declined

By the Jury: No questions

By the Court: I am 19 years old.

1.10 p.m./Adjourned.

By Court

39.

NO. 22

ENOS DAVIS

ENOS DAVIS on his oath says:

In the High
Court

Defence Evidence

No.22

Enos Davis
21st May 1965
Examination

10 I live at Warrenville in Robert Trace.
I remember 21/9/64. I had a christening at
my home on that Sunday. There were people
at my home in the evening. Some incident
occurred near my house. That evening I was
in the back of my yard. When I came to the
front I saw Pitch called Deonath Ramnath and
a crazy boy. I heard him crying. I asked
what happened. He told me that his son slap
him on his hand. The little boy told me that
Deonath slap him and wring his hand. Nobody
was there present. I told Deonath why he had
done that and he told me that the boy had
cursed him. This happened in front of my gap
to the road. A little while after Mootoo came
up and said he told Deonath why he slapped him
and Deonath told Mootoo that he cursed him.
20 Mootoo is Mootoo Sammy. He had come from Pasea
at his family's home. He had come from next
door at Johnston Ramtahal's house. Deonarine
lives next to me. Mootoo came empty handed.
Mootoo came with his car. His car was then in
front of Deonarine's house. Mootoo told
Deonath that he like to take advantage of little
fellows. They started to argue. Mootoo
chucked Deonath. I told them to done with it.
30 While I was trying to separate them, I
received 2 lash with a bucket on my shoulder and
I told them I would leave them. Johnston
Ramtahal came with 2 stones in his hand. I
left then and I went inside. I then see
Deonath in front with Mootoo behind with Deonarine
and Johnston Ramtahal running down the road.
The police saw me and took a statement from me.
I told them what I now say. I was never
summoned as a witness.

40 Cross-examined by Crawford:

Cross-
examination

I knew nothing about any chopping up.

Re-examination:

Re-
examination

There was a cart away from Deonarine's
home. Deonath tried to take a picket from the

In the High Court

cart. I took the picket away from Deonath and put it back in the car.

Defence Evidence By the Jury: No questions.

No. 22

Enos Davis
21st May 1965
Re-examination
(Continued)

No. 23

David Wint
21st May 1965
Examination

NO. 23

DAVID WINT

DAVID WINT on his oath says:

I live at Warrenville. I live at the back of the school. On 21/9/65 I was at Enos Davis house. There was a christening on that Sunday. About 6.30 - 7 p.m. the fete over and people were going home and then afterwards there is a crazy boy. He and Deonath blocked the entrance. The little boy tell Deonath your mother ass. Deonath slap the boy and as soon as that happen Mootoo, Ramtahal, Moonoo and Deonarine came out of Deonarine house. They insisted on fighting. I held Deonath's hand and tell him to come home but Mootoo say to fight. At the same time I saw the father with a cutlass in his hand coming to where this thing happen. The father turned back home. I went back to Robert Trace. I then saw them still there and then Mootoo take a piece of iron in his hand and he hit Deonath. Moon had a stick he is Johnston Ramtahal. Deonarine and all of them chase Deonath. Mootoo ran into the yard and Ramnath chop him on his foot and Deonath the same time give him a lash. The police came to me. I was summoned to attend court. I did not give evidence.

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Cross-examination

Cross-examined by Crawford:

I gave a statement to the police. I signed the statement I remember what I told the police in the statement what I had said. This is my signature which I see on the document. I spoke to P.C. Jack. He wrote what I said. I did not see Ramnath with a

cutlass on Robert Trace. I saw him about 15
 ft. from Robert Trace. I never heard him
 say that he was looking for Mootoo Sammy. I
 did not know where he was going. I told
 Ramnath that there was no road there so he
 must turn back. There was not such loud
 talking. Persons could not hear the argument.
 I tell Ramnath to turn back. I never saw
 Mootoo running with Ramnath behind. I
 10 saw Ramnath before he chop. Deonath was in
 front and Mootoo was behind. As they reach
 the father gap the father was in the yard.
 Mootoo rushed in the yard I see the father
 make a chop at Mootoo. Mootoo had struck
 Deonath with a piece of iron on his head.
 As soon as Ramnath chop Mootoo, at the
 edge of the pavement and the yard, the same
 20 time Deonath turn round and hit him with
 a long handle cutlass. After Ramnath hit
 Mootoo he was about to fall and before he
 fell Deonath cut him with a cutlass. I
 work as a watchman at Caroni. I did not see
 Mootoo do anything. It did not happen by
 the step. I know a pepper tree is in
 Ramnath's yard. I did not see Deonath
 come from a pepper tree. Ramnath was in
 his yard.

I did not see Nagma Sammy there. As
 soon as the man got chop I left and went
 30 away. I did not see anybody else cut
 Mootoo. Everybody ran away. Deonath and
 Ramnath stayed in their yard. Mootoo pulled
 himself into Shaffie's yard. I did not see
 anybody throw stones.

Re-examination: Declined.

By the Jury: No questions.

CASE FOR THE DEFENCE

NO. 24

COURT NOTES

40 10.30 a.m.

Johnston says that he had not been well.
 Says that he is not well and would like to
 begin his address on Monday.

In the High
 Court

Defence Evidence

No. 23

David Wint
 21st May 1965
 Cross-
 examination
 (Continued)

No. 24

Court Notes
 21st and 24th
 May 1965

In the High Court

Ask for an adjournment to Monday.
No objection to the application.
Application granted.

No. 24
Court Notes
21st and 24th
May 1965
(Continued)

Adjourned to Monday
24th May, 1965.

24th May, 1965

Continued from 21.5.65
Appearance as before.
Jury checked.

Johnston says that he wishes to request leave to recall the witness Robert Jacob. 10

Prosecution Evidence
(Continued)

NO. 25

ROBERT JACOB (Recalled)

No. 25
Robert Jacob (recalled)
24th May 1965
A further cross-examination

ROBERT JACOB recalled on application of Johnston says on his oath as follows under cross-examination:

I did say to the magistrate. (After seconds after I saw Deonath running coming down the road on the western side. After him, not immediately a few seconds after I saw Mootoo Sammy going in the same direction) I did not see Deonath after the quarrel. The only persons I saw were Mootoo being chased by Dailah with a cutlass. I never saw Deonath at all. 20

Re-examination: I have no explanation about that.

By the Jury: No questions.
CASE FOR DEFENCE CLOSED

No. 26

NO. 26

Court Notes
24th May 1965

COURT NOTES

9.45 a.m. Johnston commences address.
10.20 a.m. Johnston ends address.
10.20 a.m. Crawford commences address. 30
11.16 a.m. Crawford ends address.
11.32 a.m. Summing-Up commences.
2.01 p.m. Summing-Up ends.
2.02 p.m. Jury Retires.

Adjourned at 2.02 p.m.

4.40 p.m. Jury Returns.

Foreman says that jury is unable to come to a verdict unanimously and would like further directions on

No. 26
Court Notes
24th May 1965
(Continued)

10

- (a) Self Defence
- (b) Manslaughter
- (c) Murder
- (d) Premeditated Murder
- (e) Malice Expressed
- (f) Malice Implied

5.05 p.m. Jury Retires for second time.

6.07 p.m. Jury Returns.

VERDICT - Unanimous.

No. 1 - Ramnath Mohan - Guilty of Murder.

No. 2 - Deonath Ramnath - Guilty of Murder.

Allocutus Read to both Accused.

Court Pronounces sentence of death on Ramnath Mohan.

20

Court pronounces sentence of death on Deonath Ramnath.

Jury thanked and discharged.

NO. 27

SUMMING UP

This is the transcript marked "B" referred to in the declaration of CHAS. C. EVERSLEY, dated 29th June, 1965.

No. 27
Summing Up
24th May 1965.

Before me:
Commissioner of Affidavit (Ex-Officio)
.....

30

REGINA

vs

RAMNATH MOHAN
DEONATH RAMNATH

For: MURDER.

In the High
Court

SUMMING-UP OF THE HONOURABLE MR. JUSTICE H.A.
FRASER AT PORT-OF-SPAIN ON MONDAY 24th MAY 1965.

No. 27

MR. FOREMAN, MEMBERS OF THE JURY,

Summing Up
24th May 1965
(Continued)

Several indictments have already been tried at these Assizes, consequently I assume that most of you, if not all of you, are already aware of the purposes of the criminal trial, and also of the history of the criminal trial. Therefore I do not intend to go over that ground. There are, however, certain matters upon which a Judge is required to direct a Jury in summing up in each trial, and even though you may have heard some of what I am about to repeat, you must understand that each trial is an entity in itself and therefore I can do nothing else but deal with these matters on each occasion that I have to sum up. Among them, for instance, would be the function of the Jury and the function of the Judge. I propose in my brief comments on that to include also the function of Counsel.

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There are, in the area of actual trials at Assizes, three functionaries charged, each one of them, with a different function, but nonetheless all combining in their efforts to do justice or to see that justice is done. And the three functionaries are, Counsel - this includes Counsel both for the Crown and for the accused - the Judge, and the Jury. Now, it is Counsel's function, using his training and his skill and being ever conscious of the oath which he has taken, to put the case he is presenting to the best of his ability; and it does not matter whether he is doing this on behalf of the Crown or whether he is doing this on behalf of an accused person. His function never changes, whichever side of the fence he sits. His function is to help to unveil the truth, not to obscure it. And it will be for you, having heard Counsel in their separate performances, to say to what extent they have assisted you in ascertaining the truth. I should merely say this; it is not at all a part of the Jury's function to take into consideration matters or situations or institutions which have not been dealt with in the evidence in the case.

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A lot of talk has been made of an institution known as the Panchait. Well, I must warn you that you cannot import any of your own knowledge about what those institutions are, and it was highly improper of Counsel to put it upon your minds that such a thing has any bearing or relevance in this case. Because, in the relentless pursuit of truth in which you are engaged you must be ever conscious that you are trying two men, and that their liberty is at stake, and that the law has over many years evolved a system by which a Jury can be helped in this pursuit of truth to do justice between the individual on the one hand and the Crown on the other. And one of the factors which you must never lose sight of is that the material which is available to you for consideration is limited to the evidence which has been led in this Court, and the inferences or conclusions which you can draw from that evidence. You must also use your own knowledge as you would do with your own experience of the world, but you are not - and I repeat not - at all likely to be performing your functions properly or in consonance with your oath if you venture into speculative conclusions about other matters, and among them the one to which I have just referred.

In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

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It is your duty to ascertain the truth. That is your duty, and you will have to do it wherever it leads you. There are times when the truth, once it is discovered, will cause some emotional disturbance. The Jury are not expected to suffer from emotional disturbances. And that is why even though many people might think that Jury service is a simple thing, I am not one of them who share that view at all. Jury service is a highly important and highly serious matter, because Juries like everybody else are subject to ordinary human frailties. Many of us have prejudices of which we are not even aware. Many of us tend from ordinary feelings of compassion to feel pity or sympathy for another. A woman has lost her only son. That is a circumstance which in itself would tend somehow to demand compassionate reaction. A Jury is not permitted to have that sort of reaction in relation to the witness Nagma Sammy, because once you allow feelings

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

of that sort to creep into your considerations it is possible that they could colour the conclusions to which shortly you are to come. Likewise. I cited that as an example, but in similar vein I might say that human beings are also subject to other reactions which ought not at all to be imported by the Jury or even be reacted to by the Jury in considering its verdict.

When you retire, and having refreshed yourselves, you will then embark upon the business of finding out the truth from the evidence which you heard. As I say it is the truth that concerns you, and the truth which must alone be distilled, sifted if you wish, from the evidence which you have heard here in this Court. Having decided among yourselves what the facts are, then you will have to apply the law to those facts. I use facts as being synonymous with the distilled truth. Because, having sifted the truth what is left? It must be the facts which you have found. When you apply the law to those facts, and having applied the law, then you will then come up with the verdict. 10 20

As Counsel has already told you, and I will repeat, you are the sole judges of the facts. I may during the course of my summing up venture some opinions on the facts. If I do so - I am entitled to do that - but if I do so you must understand that that is a point of view which the Court thinks reasonable, but it in no way binds your point of view. If you feel that it is reasonable, and if you wish to adopt that, then you are entitled to do so and to make it your own. Counsel have impressed upon you their own view in one respect or another, and if you think theirs may be reasonable you are entitled to adopt them and to make them your own. But the responsibility ultimately is yours, and it is a grave responsibility which you will have to discharge in a mature and serious understanding of your function. 30 40

I will give you directions on the law and you will have to accept them. If before this trial you had yourselves any ideas about the law

of murder or of manslaughter, then, to the extent to which your own views are not in consonance with what I say to you to be the law, you will have to discard your view and accept the law as I explain it. Every accused person is presumed to be innocent. That presumption of innocence continues until guilt is proved. An accused person is never required to prove his innocence. The Crown's duty is to prove guilt, and if the Crown does not discharge that duty then the presumption of innocence continues and the accused would be entitled to be acquitted.

In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

When the case for the Crown was closed you will remember that I said to both accused separately that they had three rights open to them, any one of which they could have chosen. The accused could have remained silent or they could have made a statement from the Dock or they could have given evidence on oath. They have both elected to give evidence on oath. But if they had elected to remain silent, then they would have been exercising a right, because no man has to say anything in defence of himself; he is not bound to do that. But if he does, and if he does it on oath as they have done in this case, then what he says becomes a part of the evidence which the Jury will have to consider and scrutinize and examine.

Now, the burden of proving guilt, as I have said, rests upon the Crown; it never shifts to an accused person, except in very rare cases, and this is not one of them. And the law has provided a standard which the proof by the Crown must satisfy before it could be said that the presumption of innocence is displaced. The standard of proof is this; the evidence which the Crown has led must so impress you by its truthfulness that you can feel sure in your minds that the guilt of these two men has been established. The evidence must so impress you by its truthfulness that you can feel sure in your minds that the guilt of these two men has been established. You will observe that one of the first things that I have referred to is truthfulness. Many people have quite strange notions about what the truth is. And we have heard from time to time mentioned in

In the High
Court

No. 27
Summing Up
24th May 1965
(Continued)

this trial various reasons for flagrant departures from the truth. Indeed at one point I wondered whether lying was not going to be made a virtue after all. I can only express the hope sincerely that none of you would indulge in the kind of intellectual laziness and condone lying in some situations which you have either seen or heard referred to. Indeed on one occasion we had the quite astonishing statement made that a man was afraid to speak the truth. One should have thought that if there was anything that could set a man free the truth might. You have been told that a man who is not of the criminal class is made to say this or that. Now, this is a very unhappy reference because crime has never been the prerogative of any class. And the fact that a man has never been in Court is no evidence that he is incapable of committing an act of violence. That kind of quite foolish argument I would say nothing more about. I merely expect you as intelligent men and women to deal with it in the manner in which it ought to be dealt with.

I said that the truthfulness of the evidence must so impress you. Now, in the examination of evidence of a witness, to accept the evidence of another witness, the Jury is entitled to examine the whole of the evidence given by one witness and bearing in mind what others have said, bearing in mind the reasonable inferences which can be drawn, bearing in mind the behaviour as human beings, the Jury can either reject part of it, accept part of it, reject all of it, or accept all of it. As to the methods which a Jury adopts in sifting evidence, in ascertaining the truth, I cannot help. It is peculiarly your function. You have seen the witnesses, you have had an opportunity of testing their veracity, you understand what this is all about, and you will have to say what evidence you accept and what you do not accept. Bear in mind that you cannot consider matters of guilt until you have satisfied yourselves that the evidence upon which you will act is evidence which you believe to be true.

Now, before I deal with the facts of the case as presented by the Crown, there are one or two matters that I would like to refer to by

way of explanation so that you will have
 a more solid understanding of what your
 function is. During the case for the
 prosecution two statements were tendered,
 one which is alleged to have been made by
 the first accused, Ramnath Mohan, and the
 other by the second accused, Deonath
 Ramnath. I should tell you that statements
 which are tendered as evidence by the Crown
 and which are alleged to have been made by
 10 accused persons, are only available to a
 Jury for examination if those statements are
 voluntary. That is if they have been made
 by the persons who are alleged to have made
 them without force, or without fear, or
 without inducement. Those two statements
 have been tendered by the Crown, and the
 Constable who reduced them to writing said
 that they were voluntary statements. The
 20 accused themselves do not suggest that they
 were not voluntary. Indeed they both acknowledge
 that they made them. But you will remember what
 they said about them. I will deal with what
 they said about them at the appropriate time.
 What I am talking about now is the efficacy of
 those statements and the purpose for which they
 can be used by a Jury. When the Crown tenders
 voluntary statements and a Jury is satisfied
 that those statements are voluntary then they
 30 can be used as a part of the truth of the case
 presented by the Crown, and indeed this is the
 purpose for which they were tendered by the
 Crown. And the Crown is suggesting and asking
 you to draw this inference, that when you combine
 the statements made by these two accused persons
 with the evidence of the witnesses you would see
 that this act which resulted in the death of this
 man was an intentional cruel deliberate act
 visited upon Mootoo Sammy without provocation and
 40 in the situation which he was, unarmed and indeed
 not in an offensive position, and the accused,
 both with dangerous weapons, inflicted the
 injuries which resulted in his death. That is the
 case for the Crown, and the Crown is saying that
 those statements support that case.

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

If a Jury finds, and in this case there seems
 to me to be no reason why you should find
 otherwise; if a Jury finds that the statements are

In the High
Court

—
No. 27

Summing Up
24th May 1965
(Continued)

voluntary statements the Jury is entitled to use those statements as a part of the evidence led by the Crown in order, in this process of sifting, in order to ascertain what the truth is.

Now, Counsel said to you that if you can draw a favourable inference and an unfavourable inference that you ought to draw the favourable inference. Now, I understand what Counsel intended to say. I have no reason to doubt that he intended to express a well known proposition of law, but I am afraid that the way he expressed it was not very happy. What I think Counsel intended to tell you was this; that if in examining any set of circumstances you find that you can with equal justification draw two inferences, one of them unfavourable and one of them favourable, to the accused, then it is your duty to draw the one which is favourable. And that is based upon the principle that if you find that you are in a position, examining any bit of evidence, to say well now, conscientiously looking at this situation, it is reasonable to say that the accused did that, it is also reasonable to say that the accused did not do this, then out of that particular situation, once there are those two inferences which can be drawn, then you would draw the one which is favourable. That is a far cry from saying that if you can draw an unfavourable inference and a favourable one, then you must draw the favourable one. That is not the law at all. Now, if in the discharge of your duty you find that in any set of circumstances you can only draw an unfavourable inference, then you can do nothing else but draw an unfavourable inference. If from any set of circumstances you can only draw a favourable inference, then you can do nothing else but draw a favourable inference. It is only where the circumstances tend to produce an ambiguous inference, that is it could be this or that, and one inference which you can reasonably draw happens to be favourable or unfavourable, you must in fairness to the accused draw the one which is favourable. It is another way of saying if you are in a state of doubt give the benefit of the doubt to the accused. That is another way of expressing the principle.

Now, what is the evidence which the Crown has led in asking you to come to the conclusion that this is a case of murder? A number of witnesses have been called, you have heard all of them. I do not propose to examine the evidence of all of them. The fact that I do not refer to any of them does not at all mean that their evidence ought to be discarded, because the duty of discarding evidence is yours, and I do not want you to think that I am, by omitting to refer to a witness, in any way overbearing your minds as to what you ought to accept or reject. I merely treat the evidence in the way I do to put the case for the Crown in the perspective in which I see it. In doing so I may not deal with the witnesses in the same order in which they were led by the Crown. This again is merely my way of dealing with the evidence in the hope that I could clarify issues, as it were, for you. It by no means is intended to suggest the relative importance of the witness. It is perhaps not without importance for you to remember that the incident which led up to the death of the man Mootoo Sammy occurred on the 21st September of 1964, and that the man Mootoo Sammy actually died on the 4th October 1964, a difference of 13 days. You may take the view when you examine all the evidence that a great deal of what was said was said in the back-drop of the deceased being alive at the time, because nothing which the Crown alleges to have been said by these accused, in so far as assisting the proof of the Crown's case, was said after the death of this man.

First of all I would deal with the medical testimony and the cause of death. I think perhaps one should get that out of the way. It is not necessary I hope to reconcile the evidence of Dr. Hosein and Dr. Massiah. I should imagine that you would all by now realise what the position was, and that indeed there is really no conflict between them. Dr. Hosein on the night of the 21st of September was engaged as a Casualty Officer at the General Hospital. Well, he was accepting injured people, looking at their injuries, ordering treatment for them, and in the course of doing so the deceased Mootoo Sammy was brought in. Well, you remember

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

—
No. 27

Summing Up
24th May 1965
(Continued)

Dr. Hosein described five injuries; (1) an incised wound on the right side of the chest approximately 12 inches deep involving muscles, ribs and pleura. He made brief notes, from which he refreshed his memory, as he said that had he not been able to refer to those notes he would not really have been able to remember this man at all. And you may consider that that is a perfectly natural thing. I do not have to tell you what a Casualty Officer at a Public Hospital does, but I should imagine that if any Casualty Officer were asked after three days what happened to any man, and he did not have his notes, I do not think that he could tell you very much about it. So that Dr. Hosein made his notes, and he was able by these notes he made at the time to tell you what injuries he found. I have described one of them to you. The second one now, an incised wound five inches long on the upper right leg which caused a compound fracture. Now that is the wound which ultimately led to the embolism described by Dr. Massiah, that caused death. The third wound was an incised wound on the right forearm. He told you that that wound was two inches long. An incised wound on the right index finger two inches long, and an incised wound on the chin one inch long. Now, in his opinion those injuries were caused by a sharp cutting instrument, and he says that two of them were dangerous to life.

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Now, when on the 4th of October this man died, it became necessary for a post mortem examination to be carried out. This, you will remember, was done by Dr. Massiah he also gave evidence. You may feel, it is entirely a matter for you, that the detailed examination which the Forensic Pathologist carried out, by the very nature of the examination which he was performing, was likely to be a much more searching enquiry than that done by Dr. Hosein. So that while there was some difference as to the location of one wound, you may feel that the evidence of Dr. Massiah and of Dr. Hosein was complementary to each other.

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Now, Dr. Massiah said that he performed this examination on the 5th of October, and he found five wounds which he described. Well, I am going to read the Doctor's evidence on this,

because I will have to direct you in due course about the elements of self-defence, the elements of killing in defence of property or of person, the elements of provocation. In order to appreciate the legal principles regarding those matters you must at the same time have a full understanding of the facts, so that you will have to put the law to the facts, as I told you. Now, the

10 first wound examined by Dr. Massiah, an incised sutured wound. Well, the wound must have been stitched when the man was admitted to Hospital. Someone did it, Dr. Massiah did not do it, but someone must have done it, so that when Dr. Massiah examined the body he would have seen these wounds as they had been treated, and he said that; an incised sutured wound on the

20 right posterior wall of the chest, (he indicated) extending across the chest right to left commencing from the right armpit three inches above the left iliac crest. The wound was right across the middle of the back flowing from right to left. The whole wound measured fifteen inches long. The wound cut the skin the subcutaneous tissue, the muscles at both sides of the spine, the latissimus dorsai, the serrataiposterior - those are small muscles on the latissimus dorsai. Then he continued by

30 saying, "and the wounds severed the 7th, the 8th the 9th, the 10th and the 11th ribs. The ribs 7th, 8th, 9th and 10th were severed and the pleura was exposed and bruised. The wound had apparently cut through the muscles of the back and through five ribs severing 3, exposing the underlying pleura which is the covering of the lung on the right side." That's one. Now, that coincides with the 12 inch wound described by Dr. Hosein, the difference being that Dr. Hosein said that three inches of that wound

40 were on this arm and 12 inches on the back. Well, he has told you that he would consider that such an injury, inflicted with a sharp cutting instrument would have had to be accompanied by severe force. The right lower lobe of the lung was collapsed. There was also a healed incised wound over the metacarpal pleuralgial joint of the right index finger measuring one and a quarter inches. Thirdly he found an incised

50 wound four inches long in the front of the right shin; that is the middle third approximately of

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

the right leg. The wound was symmetrically disposed downwards and outwards increasing in depth as it went laterally from one quarter of an inch to one inch on the outermost aspect, and this wound severed about one inch of the front of the tibeal bone leaving a wedge-shaped sliver of bone half an inch wide by one and a half inches long which projected upwards and appeared to have been broken from the proximal end of the tibia. Some impression of the force used could be estimated because there was one inch of bone cut through and a half inch snapped or broken. The fibula was not broken. The muscles of the anterior compartment of the leg were cut and the muscle behind the interosion membrane was cut apart. The anterior tibeal vessels were severed. The posterior tibeal artery was bruised. The whole was bathed in puss, and the posterior tibeal vein was the site of thrombosis. Well, you may remember that the Doctor when he was describing this wound gave the impression, he gave the movement that he thought that the weapon would have taken, the direction, and he showed you this sort of movement from his examination of that wound. You will have to associate that testimony, plus the demonstration he gave with the evidence of the witnesses. The witness Nagma Sammy says that it was a brushing cutlass that inflicted that injury, a brushing cutlass in the hand of Deonath Rannath.

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Then the Doctor went on to describe other wounds. Then he said this about the cause of death; death was due to massive pulmonary embollosis. An embolus may be defined as any clot or particle of fat or any particle of cancer cell that becomes separated from a primary site in one part of a vein or artery, and is transported in the circulation. This is what he said. This is the pulmonary embolism. It was due to thrombosis arising in the deep vein of the right leg, the site of an incised wound of the right leg. Associated with these was a wound on the right posterior chest wall severing several ribs and cutting three with the collapse of the right lower lobe of the lung. He explained how such an embolism could have been formed, and the trauma would be the cause of it in this case.

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Now, the law is that if a person inflicts an injury on another and that other dies from a cause which has its root in the injury, then the person causing that injury is responsible for the death of the victim. In this case no question of improper medical treatment arises and you must put it out of your minds. No question of other agencies being involved to precipitate death. These you must not consider. And indeed no attack has been made on the case presented by the Crown that the death of this man was a direct result of the injuries which he received.

In the High Court

—
No. 27

Summing Up
24th May 1965
(Continued)

Now, as to who caused those injuries. You have the evidence of the man called Deonarine Ragoobar. Some comment has been made about the relationship between all these parties. Some reference has been made to the fact that the man called Jacob is as it were Pater Familia; he is the big noise in the place and he has been able by exercising his influence to get all these people to answer his call, for the specific purpose, you will have to conclude, of jeopardising the liberty of these two men. Nothing short is implied by this than that this is a planned conspiracy which all these witnesses have engaged in. You may well ask yourselves; if this is so then how is it that two witnesses for the Crown, one called - some watchman on an irrigation scheme - Sundar Singh and Roodal Moonoo, how is it they have escaped the subtle tentacles of Robert Jacob? A man as powerful as Jacob, it seems from the suggestion should have been able to control people of the quality of Sundar Singh and Roodal Moonoo. But all this influence that is attributed to this man has not been able to trap Sundar Singh and Roodal Moonoo, both of whom you may think are men who would like themselves and others to believe that they played a significant part in all this, and so the thing to do is to place themselves on the scene and to describe situations which they alone remember. Why people behave in that strange way is not for me to explain. You are all adults and you will know that the human being, being the way he is, sometimes behaves that way. As to why they do so is not my business at the moment.

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

Now, Deonarine Ragoobar. He said that on the 21st of September at about half past seven to eight he was at Roberts Trace when he saw the second accused, Deonath Ramnath, the son, wringing a boy's hand. Well, the boy himself gave evidence, he said that he was slapped. But as to whether or not there was an incident involving a little boy there is no doubt. The little boy has himself come here; Deonarine has talked about this little boy, and the accused on the 22nd of September in giving a statement to Constable Jack when he was at the Hospital removed from the scene or where it might have affected his recollection started his statement by saying "and I leave Mr. Enos house and I was going home and I meet a little boy like myself, and I hold he hand and he said let go me f...ing hand." Other witnesses talked about this little boy. But this is what Ragoobar says, that this is what happened. He said he does not know the boy's name, but he was with Johnson Rantahal and the deceased Mootoo Sammy. They were about 15 feet away when the accused Deonath was holding this boy's hand. They all apparently went up to the accused and Mootoo Sammy, the deceased, according to Ragoobar, told Deonath that the boy was light-headed, and he asked him why he was wringing his hand. He pulled the boy's hand away from the accused, and then Mootoo Sammy chucked Deonath. Well, Deonath chucked him back. There was some talk about bad-john. Well, Deonath rushed up to a cart to pull out one of the pickets. I suppose what he meant was a spoke. However, he was not able to do this. And then, he said, round about this time the father came up and he asked Deonath what happen. Well, one may get the impression here that all of this was happening within a few seconds. You will have to say whether having regard to the evidence of the other witnesses, whether this could have taken rather more than a few seconds and whether in the way in which a person describes an incident the description in this case may not have made allowances for the whole lapse of time. And the reason why you may have to do that in considering Ragoobar's evidence is because you will have to decide whether this man was there at all. If you come to the conclusion that he was there, then you will have

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to consider his evidence as a person on the scene and you will have to associate what he says with what other people have had to say and you will then have to sift the evidence given. And as to whether Deonarine was there you may yourselves wish to consider the evidence of both of these accused and the statement which this young man, Deonath, is supposed to have given the following day to P.C. Jack. After-This is in his statement, he said the boy told him to let go his f...ing hand - I let go his hand and he ran a little way off, and he curse ne telling ne to haul my nother's so and so. At the same time Mr. Mootoo and Mr. Deonarine came out from Mr. Deonarine's house, and Deonarine come up to me and tell me that the boy was crazy".

In the High
Court

No.27

Summing Up
24th May 1965
(Continued)

Well, this is the day following the incident. This is at precisely half past twelve in the midday of the following day. 'At this time Mootoo Sammy is alive and in the Hospital, and what he is saying removed from the scene of the incident at Warrenville is that there was an incident about a little boy and Mootoo Sammy and Deonarine were there. Well, if you think - and I remind you that he does not question the voluntariness of the statement - if you believe that Deonarine was there and you believe that there was this talk about a little boy, well you can come to your own conclusion as to whether the incident that Deonarine describes took place all at once or whether it was phased over a little time.

His evidence continues this way; 'That Rannath Mohan came up and asked his son what happen, Deonath did not answer, and then Rannath said that he would fix up their arse and he must not frighten. Well, he had this cutlass in his hand and a man called Rantahal spoke to Rannath. And then Rannath asked where is Mootoo Sammy, that he was going to open his back. Well, at that point Mootoo Sammy started to run towards the Southern Main Road. Well, at this time they were on Roberts Trace. He started to run towards the Southern Main Road. Well, that is the evidence.. Rannath was behind Mootoo, and he, the witness, was behind Rannath. When he reached the Southern Main Road he ran south.

In the High
Court

No. 27

Sunning Up
24th May 1965
(Continued)

He then says he saw Deonath come out from his father's yard. After Rannath came up to the boy and ourselves.. He must have been asked at this point what had happened to Deonath in Roberts Trace, and he said that after Rannath came up with the cutlass he did not see Deonath again, but while they were running down the Southern Main Road he saw Deonath come out of his father's yard. As soon as Mootoo Sammy reach approaching Rannath's yard, he was running on the pavement, Deonath came out of his father's yard and Mootoo Sammy turned back. Deonath then made a chop with a cutlass on Mootoo Sammy. He does not know what part of the body got chopped, but Mootoo Sammy fell down on the edge of the pavement. He fell on the pavement where a wire fence meets the pavement near the yard of Shaffie Mohammed. This is next to Rannath Mohan's yard. Mootoo Sammy picked up a pitchoil tin. He fell sideways facing Shaffie's yard. While he was lying on the ground Mohan then made a chop. While he was lying on the ground. I then ran into Shaffie Mohammed's yard and I picked up a piece of wood. He showed you how long the piece of wood was. And I hit Deonath on his head, while Deonath and his father Rannath were chopping Mootoo Sammy. Rannath then swung round behind me with his cutlass and I left and ran. I ran hone straight and I never look back. Well, is he speaking the truth. His story is that there was an argument at the house in Roberts Trace, that during the talk there Rannath came with a cutlass asking for Mootoo Sammy; and when Mootoo Sammy realised what was taking place he started to run, Rannath chasing him. And as they reached on the pavement near Rannath's house Deonath chopped him on the pavement, and while there fending off blows Rannath also chopped him.

Now, you may wish to see what P.C. Jack is told the next day while Mootoo Sammy is alive. You may wish to examine this in order to satisfy yourselves as to whether or not Deonarine was there, and whether or not Deonarine did hit this man. Because, Deonarine says I hit him. It has been suggested - indeed the evidence of the accused is that he was hit at Roberts Trace on his head with a piece of iron about the same length as the stick which Deonarine says he use .. You are

adults. You will have to make up your minds about this; whether a piece of iron is likely to cause the type of injury which Dr. Hosein saw on Deonath's head; a superficial abrasion he describes it, a superficial injury. Is this more likely to be caused with a piece of wood than a piece of iron? And if you think that it may well have been caused by a piece of wood, then who was the person that caused that injury? Was it Deonarine as he said he did?

In the High Court

No.27

Summing Up
24th May 1965
(Continued)

Now, without going into the rest of the statement, this is what Deonath Rannath told Constable Jack. Indeed he said to Constable Jack that he got injured on his head with a piece of iron by his father's pepper tree, not on Roberts Trace. So, on that next day he was claiming that the injury to his head took place in the region of his father's pepper tree. That is precisely where Deonarine says the injury to his head took place. But he gives a different history as to how he got this wound. And the history he gave on that day after the incident is different from the one he gave in Court. What he says here is this; 'I was walking away when Mootoo ran up and pick up a piece of iron from his car. And he ran me down. And I went to my father's house on the Main Road and hide. After about ten minutes I did not see anybody on the road, I came out and it had a pepper tree and Mootoo was inside the pepper tree and he jump out and hit me on my head with a piece of iron, and my head started to bleed. And I see Deonarine coming with a cutlass. And while I waiting for something to go to the Station to make a report Deonarine hit me on my right foot with a piece of wood. And he dropped the piece of wood and rushed me with a cutlass and he made a chop at me. So, he is saying on the day following that Deonarine in the area of that pepper tree hit hin with a piece of wood. He says on the foot. Deonarine says I hit hin, but I hit hin on his head in the region of that pepper tree after he and his father were chopping the deceased.

When you come to consider Deonarine's evidence you have that material to look at. Was he there and if he was is his evidence true. In addition

In the High
Court

No. 27

Sunning Up
24th May 1965
(Continued.)

to the evidence of Deonarine Ragoobar there is the evidence of Robert Jacob. Well, you have seen Robert Jacob. He gave evidence one day last week on the 19th of May and he was recalled this morning to explain why in the Magistrate's Court he said that Deonath had gone down the road and shortly after that Ramnath had done so. Upon being confronted with that he said that he did say that to the Magistrate, this is his deposition, but he cannot explain why he said that because indeed he never saw Deonath at all; he says if I said that then I was quite mistaken about that because I did not see Deonath at all. What you are asked to say is that he was deliberately lying and that this is an indication of the extent to which he has fabricated this case against the accused. Well those are matters for you. I should tell you that Counsel is entitled where a witness has made a statement inconsistent or contrary to a statement he made on oath to ask the witness about that statement, and if the witness does not admit the statement to PROVE it. And the purpose of doing that is to ask the Jury to discard the witness's evidence. Well, what you are being asked to do is to say that the evidence of the witness Robert Jacob must be thoroughly disregarded because he has admitted making a statement in the Magistrate's Court which today he says he cannot explain, because he never saw Deonath at any time running on the road whereas on the deposition there is that he so stated. Well, it will be for you to say whether you consider it a reasonable indication. It will be for you to say, having seen this man Robert Jacob, if you can conscientiously, in a mature discharge of your duty, say that nothing he says is reliable because he says well I cannot explain what is written in that document, but I never saw the man. That, you will bear in mind, accords with his evidence in this Court, that he did not see Deonath running down the road. And it is his evidence in this Court that matters in this trial. What he says in the Magistrate's Court is not evidence of what happened, it can merely be used by you for the purpose

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of deciding whether he is a truthful witness or he is not a truthful witness. However he has told you that in a way he is related to both sides in this matter; his wife is the aunt of the deceased and by some female connection he is related to the accused Rannath. On this 21st of September around 8 to 8.15 he heard a noise. He heard Enos Davis's voice. When he came out he saw Rannath Mohan; he calls him Daylah. He was on Roberts Trace. He has known Rannath for 20 to 25 years, and he has described to you the relationship between them over that time. He had a cutlass which he describes as a poinard, and he showed you how he was carrying it. Well, Deonarine said that Rannath came up to them with a cutlass, and you may feel that this is what happened before Rannath reached them if you believe this witness. If you do not believe him, well then you could say that this never happened at all. A few seconds after when he spoke to Rannath he said don't go there you are going to get yourself in trouble, whatever it was, whereupon Rannath continues. He saw a few people coming from the direction of Roberts Trace, and as they reached him he saw that Mootoo Sammy was running in front and then he saw Daylah running behind Mootoo Sammy with a cutlass upraised. He again shouted at Daylah and then Rannath said I am going to open Mootoo's back tonight. They ran into the yard and then they ran back on to the road. They ran by a small almond tree and then they continued down the road in a western direction. Well, they got to the Southern Main Road. He came out of his house, he went down the road, we went on the Southern Main Road and he saw some people, and at that distance he couldn't recognise any of the people. But he heard a voice, a voice that he recognised to be the voice of Nagna Sammy, the mother of the deceased. After that his son came and they spoke, and he ran back to his jitney. Himself and his son and other people picked up the injured body of Mootoo Sammy and they took him to Hospital.

In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

That is the evidence of Robert Jacob. Well, is he a liar? Is he a liar or is he speaking the

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

truth? You will have to decide that. If you believe him then you can come to the conclusion that Nagna Sammy was on the road that night. And if she was on the road that night then you can ask yourselves what was she doing there and in what circumstances. Now, this man Robert Jacob does not tell you that he saw any incident at all, any cutting. He merely says that he saw Rannath with a cutlass and he spoke to him, and Rannath then told him that he intended to open this man's back that night. Well, having heard Dr. Massiah's evidence you will have to come to your own conclusion and ask yourselves whether this man's back was opened that night, was it opened by a cutlass? And if it was opened by a cutlass, what sort of cutlass? What Nagna Sammy says, if you believe her evidence, is that a brushing cutlass was used by Deonath on her son's foot, and the witness says that as he was falling the father cut him. Well, you will remember that it was suggested to this man Deonarine that the father had struck Mootoo with a poinard on the leg and that as he fell down Deonath then cut him on the back with a brushing cutlass. Deonarine said no, that did not happen; he doesn't accept that at all. But you have got the evidence of Nagna Sammy as to who struck the first, where and with what; you have the evidence that Rannath cut him. And from Dr. Massiah's evidence you will have to ask yourselves whether the back of that man was opened that night. Well, is Robert Jacob speaking the truth? A matter for you.

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Well, you have the evidence of Nagna Sammy. She tells a simple story. She says her son's car was at home that night, it was not on Roberts Trace, he had put it up. On that night of the 21st of September she heard a noise at the back of her house. She was going to her sister's home. She went by the Southern Main Road. As she was going down there she saw Deonath by his father's pepper tree. Well, Deonath on the following day said that he ran into his father's yard and he hid there. On Tuesday the 22nd that is what he told P.C. Jack; he went to his father's place and he hid there, and that it was the deceased who

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was hiding in the pepper tree. This woman is saying that she saw this one in the pepper tree. Well, as she was passing Shaffie's yard she saw two persons, and that they passed her. She recognised her son Mootoo Sammy as one of them and she recognised Rammath as the other one running behind her son with a cutlass. Rammath had a raised cutlass in his hand and when she saw it, she said, she turned around and shouted. At that time her son was about by the wall, about 25 feet from her, and she said that Daylah was about 10 to 12 feet. While she was shouting she saw Deonath come out from his father's yard and struck Mootoo Sammy on his foot with a brushing cutlass. Her son was on the road by Shaffie when Deonath came out and chop my son on the road. When Deonath chop him he fell. Rammath also was there and both of them started to chop my son. And I went and I held to Deonath. Deonath pushed me off into the road. And while Mootoo was on the ground he held up a garbage tin. He was holding up the tin and she was shouting, and Mootoo Sammy was barring the blows and people arrived. And then Deonarine came up and he struck Deonath with a stick on his head. She says she saw that.

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

The following day Deonath said Deonarine was there by the pepper tree and struck him. This woman is saying that she saw this happen. Well, she said she did not see when Deonarine came or how but she did see him strike this man with a stick and then Deonath ran down the man Deonarine with a cutlass. Well, this is the mother of the deceased. I do not think that you want me to stress that you cannot feel any compassion for her. I shouldn't say that. You can feel compassion for her, that is a human thing, but you cannot allow any compassionate feeling that you may have for her as a human being who has lost her son to affect your judgment in this matter. Issues of truth and untruth must not be affected by compassionate feelings. If you are examining her evidence for the purpose of ascertaining whether or not she was there, and if you believe Robert Jacob who said he heard her voice, and if you examine what she says and you feel that it clearly fits into what the accused says, in what on the following day he told the Police,

In the High
Court

—————
No. 27

Summing Up
24th May 1965
(Continued)

then it is up to you to make up your minds whether or not she was there. But she says she saw him cut her son on the foot with a brushing cutlass, and it was then, she said, while both of them were there chopping that Roodal came up and he said 'well, look I am Roodal. Is it that Roodal came at that time as she said, and in an effort to save Mootoo Sammy identified himself so as to stop Rammath from chopping? Or is it as Roodal tried to explain to you that he was walking casually down the road with this dead man at the side? Can you really give any credence to Roodal's evidence that he was walking down the road? Or is it as this woman says, that he came up after the chopping took place?

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Well, that substantially is the case for the Crown, though I shall add this, that you have got the evidence of Constable Jack. This becomes important because these two accused have given evidence on oath in which they admit that they gave statements to the Police, but said that those statements were not true. One of them says that a part of what he said was true, the other said that that is not true at all, and they both told you that the reason why they did not speak the truth is because they were afraid. Well, you will have to examine what they told P.C. Jack in relation to what the other witnesses have said in order to ascertain the truth; you will have to decide wherein lies the truth.

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Now, on the night of this incident Constable Jack went to this man's house. It was suggested to Constable Jack when he was giving evidence that this man Rammath showed him his cutlasses when he went there. Well, you have heard Rammath's evidence about that, that the Constable never asked him for any cutlasses, he never showed the Constable any; and that the cutlass was there in the yard but he never gave the Constable it. And you have been told that a man who is not of the criminal class, who had hitherto a highly respectable place in the community, and who was reluctant to incriminate his son and vice versa would lie about that. Well, self defence is not a matter of law, and

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it might well be that many people misunderstand the functions of lawyers. It is not a lawyer's function to devise a defence for anyone. Self defence is a matter of instinct. We as human beings all possess what is known as the urge to survive, and if our survival is threatened instinctively we move to protect it. Animals behave this way. We are all of the genus of animal and we too behave this way. And you would know, those of you who have children or remember when you were children, that any person who attacks you is likely to be met with resistance, because one is fearful for one's own safety. This is instinct, this is not law. What the law does, the law protects that instinct. And the law in understanding the operation, the reaction to this instinct, makes provision for it. What the law says is this; that where a person kills another in self defence that that homicide is excusable. That is what the law says. The law does not at all say that you would have to consult your legal adviser before you know whether you have a defence of self-defence. Oh no. So that if a man is attacking you and you have a cutlass, you will be able to use it if you are fearful of your life. It is that sort of behaviour that the law protects. A man is threatening your own safety and you feel fearful that he will kill you, and in this fear of your own life being in jeopardy you strike out at your assailant and you kill him, then the law protects that. But this striking out is not a matter of intellectual legal appreciation, it is a matter of animal instinct. So that if, and you will have to use your judgment about this, a man assailed by another had attempted to protect himself in this way, you do not expect that upon some member of the Police Force coming along and asking - he was not bound to say anything, bear it in mind; you are not bound to say anything at all, but if you are going to say what happened, are you going to start off by lying to him altogether? And you are entitled to ask yourselves why this man did lie, because he said he lied to the Police. He says what he told the Police is not true. Well the Crown says that what he told the Police is not

In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

true. Inferentially, this is what he told the Police that night; 'I don't know nothing about no chopping up business you talking about. All I know is that at about 9 o'clock tonight I was at home and I see my son Deonath running by me. I ask him what happen and he say that two fellows run him down. Then I see Mootoo take up three stones and pelt at my house. My son Deonath then come back on the road and he and Mootoo started to fight and nobody part them. And when everything cool down I see Mootoo bleeding and my son was bleeding too on the head and he went away. That is all I know. I did not see nobody with cutlass." He comes to this Court and he says that his defence is that he was protecting his property, that people were stoning his property and he was protecting it.

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Well, Counsel has told you that if a man's property is being stoned that he can protect it. Well, there is a law dealing with protection of property and I will have to direct you about that. It is only enough for me to say at this moment that it is not the law that if your house is stoned you can go and kill the person stoning it. That is not the law. Stoning of buildings is made a Summary Conviction Offence. It appears, and I will refer to it later on, in two sections of the Summary Convictions Ordinance. It is a Statutory offence. Killing in defence of property arises as a legal proposition where felonious conduct is being indulged in in relation to the property; where a person is attempting to burn your house or to burglarise your house, then you can defend it. But, attacking a man who is standing on the road throwing stones at your house, as a justification for homicide, is a proposition not yet recognised by the law.

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However, this is what he says, and he said this on the night; this is what he said that night. He said that he did not tell the truth because he was afraid. You will have to make up your minds whether that is so. But Constable Jack says on the following day he also saw this man Ramnath, he had a plaster on his head, which would

indicate that he had an injury. Well, Deonarine has told you how he got it, and Nagma Sammy told you that she saw Deonarine hit him. But you will listen carefully to what Jack recorded on the following day, remembering that this man was alive and remembering that the accused acknowledges that he gave this statement voluntary. Now, if you are satisfied that the Crown have proved that this is a

10 voluntary statement, then you can use it for the purpose for which it was tendered by the Crown. And this is what this man is alleged to have said to the Policeman on the day following; "Last night the 21st of September I was at Mr. Enos Davis house at a christening. I leave Mr. Enos house and was going home. I meet a little boy like myself. I hold he hand and he say let go me f...ing hand. I leggo

20 his hand and he ran a little way off and he curse me telling me to haul my mother's so and so. At the same time Mr. Mootoo and Mr. Deonarine come out from by Mr. Deonarine's house and Deonarine come up to me and tell me that the boy was crazy. I tell Deonarine that I did not know that. And Mootoo come up to me and tell me that he see that I wring up the boy hand. And I tell Mootoo if he see I wring the boy hand to do something for it. And I was

30 walking away when Mootoo run up and pick up a piece of iron from his car and he ran me down. And I went to my father's house on the main road and hide. After about ten minutes I did not see anybody on the road I came out. And it had a pepper tree and Mootoo was inside the pepper tree and he jumped out and hit me on my head with the piece of iron and my head started to bleed and I see Deonarine coming with a cutlass and while I waiting for something to go to the Station to make a report Deonarine hit me on my right foot with

40 a piece of wood and he dropped the piece of wood and rushed me with the cutlass, he made a chop at me, I got away from it and the Cutlass cut Mootoo on his hand and Mootoo fall down on the pavement and people pick him up and carry him by the Hospital and I stopped a car and went to the Station and make a report but I did not cut Mootoo because I had no cutlass in my hand and my father was only standing on the pavement, he did not do nothing. Deonarine tell me when he was coming with the

50 cutlass that he would cut up my mother's so and so

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

because he had that for me a long time."

Well, Mr. Foreman and members of the Jury, that is the statement which was given to Constable Jack on the 22nd of September. Is this what a person who in fear of his own life and in fear of being attacked is telling a Policeman on the following day? Would it be that he would suggest that Deonarine is the person who cut Mootoo. If you have to strike out in self defence are you likely to say that the victim was cut by Deonarine instead. Well that is what this statement amounts to, that he was then telling the Police that it was Deonarine who struck at him with a cutlass, he escaped from Deonarine's assault, and Deonarine's blow cut Mootoo. That is the case for the Crown. 10

Well, the accused are charged for the offence of murder. Where a person of sound memory and discretion unlawfully killeth any reasonable creature in being and under the Queen's peace with malice aforethought either express or implied the death following within a year and a day such a killing is murder. Some parts of this definition are rooted in antiquity and it would be taking much too much of your time for me to elaborate on them. For example, a reasonable creature in being and under the Queen's peace. You can assume that all people are reasonable and that all people within this Territory are within the Queen's peace, even persons serving terms of imprisonment. All people in this Territory are under the Queen's peace and are presumed to be reasonable. Where a person of sound memory and discretion unlawfully killeth; again all people are presumed to be sane and of sound memory. So that, accepting this definition, the question of insanity or of soundness of mind would not arise, and if you are satisfied ultimately that this act was done by the accused or one of them and the other associated with him in a common act, then on the presumption that they are both of sound mind and memory you can find that they answer that part of the definition. The death following within a year and a day. In this case the death occurred within 13 days of the assault. You may have observed that there are three parts of the definition; unlawfully killeth, with malice 20 30 40

aforethought, expressed or implied. Well, every unlawful homicide is not murder. Manslaughter is unlawful homicide. The difference between murder and manslaughter is that murder requires malice expressed or implied manslaughter can be committed without malice. I propose to direct you on both offences because there are circumstances in this case which I consider sufficiently relevant to justify my direction both on the offence of murder and of manslaughter. To deal briefly with what is meant by unlawful killing I would say that all homicides are not culpable. There are justifiable homicides and there are excusable homicides. A justifiable homicide occurs for instance where a public executioner is carrying out a sentence of death. Excusable homicide occurs where a person is defending his life and in defence of his life kills another. That is excusable homicide, it is not unlawful homicide. Except justifiable homicide and excusable homicide, all other homicides are unlawful. So that in this case the killing would be unlawful. The element which is of prime importance and about which I am going to direct you is malice. And I will divide this as to definition, between express malice and implied malice. Express malice may be said to be either of the following two states of mind, preceding or coexisting with the act or omission by which death is caused, and it may exist where that act is unpremeditated. Malice, I should say at once, is not premeditation. Malice could arise without any premeditation. Premeditation, if there is evidence of it, may be evidence in support of the proposition that malice existed, but one must never confuse malice with premeditation. Now, malice may be said to exist (a) where there is an intention to cause the death of or grievous bodily harm to any person whether such person is the person actually killed or not. Put another way, express malice may be said to exist where first of all there has been an intention expressed to kill a person or an intention expressed to do a person grievous bodily harm. Grievous bodily harm means no more than serious bodily injury. If you believe the evidence of the man Robert Jacob who said that the accused told him that he was going to open the back of the deceased, if you believe Deonarine on that, then you may take the view that the man Rammath had

In the High Court

No.27

Summing Up
24th May 1965
(Continued)

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In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

expressed an intention to do grievous bodily harm, he had a cutlass with him. And if you believe that he struck that man with that cutlass across his back, then you can in associating the act with what was said, if you believe he did say it, come to the conclusion that there was express malice. Express malice may also be said to exist where for example there is knowledge that the act which causes death would probably cause death or grievous bodily harm to some person whether such person is the person actually killed or not although such knowledge is accompanied by an indifference whether death or grievous bodily harm is caused.

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Clarifying this, what the statement means is that where a person intends to cause grievous bodily injury and knows that that injury is likely to cause death or will probably cause death, and death follows, then that knowledge that such an injury could possibly cause death would be in law malice.

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In this case the evidence of the Crown is that this man said he would open the back. So that, from the point of view of the direction I have just given in the first part of the definition, that would be of interest to you, in that the case for the Crown is that the man Ramnath said that he was going to open the back and that he had a cutlass and that in fact he opened the back. Now, it may be said that opening of the back did not cause death, but the Doctor said that while the pulmonary thrombosis resulted from the injury to the leg, that it was accompanied by the other severe injuries to the back. Moreover, if you find that the other accused inflicted the injury to the leg, and you find, as I will in due course direct you, that these two men were engaged in a common act, then the act of the one will have to be attributed to the act of the other, because if you find that the cutting with that brushing cutlass was done with the intention to cause grievous bodily injury and that grievous bodily injury resulted in death, then the intention to cause grievous bodily injury, for the purpose of this offence, would be malice.

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Now, I wish to add just a few words about a common act, because you may feel that though the wound which precipitated the embolism was the wound on the leg that only the person who could be said to have been responsible for that wound could be held responsible for this act. That is not the law. A killing by several persons in circumstances where it cannot be known by whose hand life was actually extinguished is murder on the part of each of the persons carrying out the common act of all and is not merely an attempt to murder. Now, if in this case you take the view-this is the Crown's case - that these two men set upon the victim, the son from in front and the father from behind, and one of them inflicted a blow which ultimately resulted in death while the other inflicted a blow which contributed to the condition which caused death, then you can find that they were both culpable and that express malice has been established. One way of looking at this question of malice is to examine the nature of the act. What the Crown must prove in inviting a jury to find that there was malice is that the act which caused death was a voluntary act, that it was unprovoked and that it was not done in self defence. It is true that an accused person is entitled to raise self defence as a defence, but he has no duty to do so; the Crown must prove that the act was voluntary, unprovoked and not in self defence.

At this point Mr. Foreman and members of the Jury, it is now getting on to 1.20, I think my summing-up is not quite through, could you perhaps consult with your colleagues and tell me whether you would prefer to have lunch now and then I conclude my summing-up or whether you would prefer me to conclude my summing up and then you would have lunch. I shall be on the outside half an hour, I do not think as long as that.

Mr. Foreman: You may continue.

His Lordship: Thank you very much. I was on this question of considering the nature of the act and the proof which the Crown must fulfil. It is the Crown's duty to prove that the act was voluntary,

In the High Court

_____ No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

that it was not provoked, and that it was not done in self defence. Once you understand this, when you examine the evidence on the case presented by the Crown you will have to find (a) that the act was a voluntary act (b) that it was unprovoked and (c) that it was not done in self defence in order to find that this offence of murder was committed. I will deal with each of those. I will deal with provocation and self defence in due course. What I would like to touch upon now is implied malice. 10

In many cases where no malice is expressed or openly indicated the law will imply it from a deliberate cruel act committed by one person against another. It may be implied where death occurs as a result of the voluntary act of the prisoner which was intentional and unprovoked. If you find that there is no expressed malice you still have to consider implied malice. The law says malice is implied where a deliberate cruel act is done voluntarily, unprovoked, and which is intentional. Now, examine first of all the evidence relating to the injuries. Do you have any doubt in your mind that the act of cutting the deceased in the manner described by the Doctor was the result of a cruel act? If you are satisfied that these cuts resulted from cruel acts, then you have to ask yourselves whether these acts were intentional; that is whether they were inflicted with the intention of causing grievous bodily injury and not in self defence or in protection of property. Even if they were done intentionally, they were done in the protection of property or in self defence. If you are satisfied that neither of these two arise and that the act was done intentionally, you must also be satisfied that the act was unprovoked. Because, if a person does a cruel act intentionally, but as a result of provocation, then what the law says is that that provocation will reduce the quality of the crime from murder to manslaughter. 20 30 40

What is provocation? I will deal with that at once. Provocation in law is some act or series of acts done by the deceased to the accused which would cause in any reasonable person, and actually caused in the accused, a

sudden and temporary loss of control, rendering the accused so subject to passion as to make him for the moment not master of his mind. No provocation whatever can render homicide justifiable or even excusable; provocation may reduce the offence to manslaughter. If a man kills another suddenly without any or, indeed, without a considerable provocation malice may be implied and the homicide amount to murder, but if the provocation were great and such as must have greatly excited him, the killing is manslaughter only. So that, in order to find provocation, you must find that the accused was so incensed by what had taken place between himself and Mootoo that his subsequent conduct towards Mootoo could be said to have been the result of his having for the moment lost control of his mind.

In the High Court

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No. 27

Summing Up
24th May 1965
(Continued)

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Now, perhaps I could put the position this way. Where in a charge of murder there is evidence on which a jury can find that the person charged is provoked, whether by things done or things said or by both together, to lose his self-control, the question whether the provocation is enough to make an ordinary man do as he did should be left to the jury; and in determining that question the jury should take into account everything that was done and said according to the effect which in your opinion it would have on a reasonable man. The test to be applied is whether the provocation was sufficient to deprive a reasonable man of his self control; not whether it was sufficient to deprive of his self control the particular person charged.

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In this case the accused says that Mootoo Sammy chucked him and that he chucked back Mootoo Sammy, and the man Deonarine raised a cutlass at him. This is what he told the Police; that Mootoo Sammy and his friends chased him, and that he was hiding, and then they came there again. Well, if you feel that what he described was sufficient to cause a reasonable man to lose control of himself and behave in the way he did, then you can say that he was provoked and that the crime is therefore only manslaughter. But bear this in mind Mr. Foreman and members of the jury;

In the High
Court

—
No. 27

Summing Up
24th May 1965
(Continued)

yours is not an easy way out of the situation. I am directing you on the law of manslaughter because of certain issues which have been raised, but you should not take the view that the Judge says that if we are satisfied that the circumstances support a plea of provocation that we can reduce the offence to manslaughter, so that is the reasonable thing to do; that would be sparing the lives of the accused so let us do that. You are not permitted to do this. 10

However simple may appear to be a solution, your oath requires you to do justice. When you are sitting in justice you have got to apply these directions which I have given you to the facts, and if having applied them you take the view that you believe in truth that this is a case of murder, then you will have to say that; if in applying them you believe that it is a case of manslaughter, then you can say it. But you cannot choose the one because it is less onerous than the other. If on the other hand you feel that the Crown has not satisfied you, then you will acquit the accused. But bear in mind that you cannot seek or resort to simple solutions because they are easier to adopt; that is not your function. 20

In all the cases, to reduce homicide upon provocation to manslaughter it is essential that the battery or wounding should have been inflicted immediately upon the provocation being given. If there is sufficient cooling time for passion to subside and reason to interpose, and the person so provoked afterwards kills the other, this is deliberate revenge and not in heated blood, and accordingly amounts to murder. 30

Now, I should tell you something about killing as a result of fighting, because there has been mention in the statement of the man Ramnath to the Police that there was a fight outside. Well, that having become a part of the Crown's case I must tell you what the law is about that. Killing by fighting may be either murder or manslaughter, or homicide in self defence, according to the circumstances. If two persons quarrel and afterwards fight and one of them kills the other, in such a case if there intervenes between the quarrel and the 40

fight a sufficient cooling time for passion to subside and reason to interpose, the killing is murder. But if some time has not intervened, if the persons in their passion fought immediately, or even if immediately upon the quarrel they went out and fought in the field, then this is deemed a continuous act of passion and the killing in such a case would be manslaughter only, whether the party
 10 killing struck the first blow or not.

In the High
 Court

 No. 27

Summing Up
 24th May 1965
 (Continued)

I mention all this because of what appeared in the statement of one of the accused. But as to whether the way the accused in that statement says this thing occurred is in fact how it occurred, is a matter which you will have to determine. And indeed, this business of killing by fighting can only arise if you take the view that on the evidence there is - because you accept that, that is
 20 how it may have occurred there is some evidence which would justify you in applying this principle. If on the other hand you do not believe that is how it happened, if you believe what the witnesses for the Crown say, then there does not arise, you may take the view, any fighting and any killing by fighting. Just to close off this aspect of the direction, I would say even in the case of a sudden quarrel where the parties immediately fight, the case
 30 may be attended with such circumstances as would indicate malice on the part of the party killing, and the killing would then be murder and not merely manslaughter. So that even if there is a fight, but within this element of express malice, and you can find that the person took advantage of the fight to inflict severe injuries, then that would be murder. Where, for instance, two men are fighting with their fists and one pulls a gun, surely a
 40 shooting in that way could not be described as a killing in a fight. Or a man pulls a sword or runs through the other with a knife, and the other one is merely fighting with his fists. It may be on the other hand in the course of a fight the other one with the fists may so seriously assault him or upset the other that in a fit of provocation by the blow, in the fit of provocation in that moment he resists by shooting; that could possibly be manslaughter. But you will have to

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

examine the circumstances of this case to see whether you would be at all justified in any such conclusion.

Now, it has been urged upon you that this is a killing in defence of personal property. Perhaps I could deal with that more effectively when I have dealt with the case presented by the two accused, because Counsel has urged upon you that what in effect the accused are saying is that they were justified in killing in defence of their personal property. It is really a rolled-up plea of self defence and killing in defence of property; but the two things are not the same, and I will deal with that later on.

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There are always two sides to a question, and you will have to consider the case of each accused separately. What the Crown has said is that they were engaged in a common act, that they both set upon this man and hacked him to death. That is what the Crown is saying. As to the reason why they should do this is no concern of yours. Motive is never a requirement in a case of murder. If there is a motive then it is admissible as a part of the case. The fact that no motive is disclosed is not to diminish the effect of a case, for as to why people behave the way they do, as to why human beings commit the acts they do, are not matters to be explored speculatively by a jury, but can only be examined when evidence is led about them. So, do not consider yourselves concerned with any question of motive, the absence of any evidence of motive does not relieve you of any of your functions. The evidence does suggest that there was some quarrel over the holding of a boy's arm. You can take the view that this would seem a rather trivial incident to produce such terrible consequences. However unfortunate that is, that is not a matter for you to speculate about; you have got to take the evidence the way you find it.

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What is the case of the first accused, that is Ramnath? Ramnath gave evidence on oath, he was cross-examined, and you must consider his evidence carefully. If you believe what he says then of course you will have to consider whether he is justified, even if what he says is

true, that he was defending his property in the way in which he said he defended it. If you do not believe him you cannot say, well he is a liar therefore he is guilty. You must look at the case for the Crown, for it is the Crown's duty to prove guilt, not the duty of an accused to prove innocence. You must listen carefully to what he said. Advocacy can sometimes lead to an over-

10 enthusiastic expression of a point of view, but you have got this very cold-blooded task of finding the truth, and you will not have the benefit of the art of advocacy when you get in the jury room. You will have to look at what was said by everybody. You will have to examine this cold truth or untruth.

In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

This is what Ramnath said: "On the 21st of September around 11 p.m. I saw Constable David Jack. I gave him a statement" He

20 acknowledges that statement. "That statement is not true. I was afraid and that is why I gave him the statement. I have not previously been charged with acts of violence". The suggestion here, and I think Counsel pressed the point, is that a person who has never been charged with acts of violence has some perogative to tell an untruth because of fear. Well, members of the jury, I need only say to you that you will understand the obligation, moral, social

30 and otherwise, sufficiently to examine such a statement and see whether it at all strikes you as being valid. "I saw my son that day home at me. I saw my son bleeding. I was in my house and I saw him bleeding from his head. When I saw my son bleeding I heard him making noise under the house. I put on the downstairs light. When I was coming downstairs I saw Deonarine, Roodal Moonoo and Mootoo Sammy and Johnson Ramtahal. They were standing by the

40 road. Mootoo Sammy was in front and he had an iron about as long as my arm. Deonarine had a stick. I did not see Roodal with anything. Ramtahal had two stones. As I came down Mootoo Sammy walked into my yard with the iron. He rushed me with the iron and he made a lash at me. I pick up a poinard and I made a lash at him and it catch him on his foot and he ran out the yard and he went to the pavement. The balance ran also. I did not see my

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

son do anything. I did not see where he went".

Then he was cross-examined by Counsel. But this is his story and in effect he says that the reason why he used a cutlass or poinard was that this man Mootoo Sammy rushed at him with an iron and me made a lash at him. In short, he was defending himself. This is self defence. You can, if you consider your life threatened, defend yourself, and I will deal with that issue of self defence and killing in defence of property in due course. He was cross-examined, and then you will remember he said he did not see his son use a brushing cutlass, he delivered one blow and so on. Well, you will remember all he said in cross-examination. You will remember how he struck you as a witness. I have told you already if you believe him what you would do. I told you if you do not believe him that you cannot fail to perform your function, even in that unbelief.

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I will deal with the case of Deonath Ramnath before I touch on the witnesses. He said that on the 22nd of September at about half past twelve he saw Constable David Jack to whom he gave a statement. He was then suffering from a head injury. That's what he said. Only certain parts of the statement are true, other parts are not true. "I told the Police untruths because I was afraid. I was afraid that I would be arrested for chopping Mootoo Sammy so I would not the truth and I lied. I remained in hospital for four days. I reported to the Police on the night." He has come here and said that what he says here in the box is the truth, what he said that day was untrue, and Counsel has said enough to suggest to your minds that the acts of Ramnath and of Deonath must be construed as acts of nobility, and they have now condescended to tell you the truth. Well, you will have to treat that the way you consider right. That is entirely a matter for you. "I was sent to the D.M.O." He said he had a wound. Then he proceeded to tell you what happened on the night of the 21st. Around 8 to 8.30 there was a christening. He lives about half a mile from his father. "I went to the christening from my house. At the christening about halfpast eight to nine I left Davis' house and I was

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coming out. I met a little boy whom I knew. I spoke to the little boy and told him to come and go home. It was just the house people there, one or two other persons. I hold the boy's hand. I saw Deonarine Ragoobar. He came from his house. Mootoo Sammy tell me why I wring the boy's hand. I told him that I did not do so. He tell me that when I drink my rum I does play badjohn and that he would pull me down. He left and he went to his car which was in front of Deonarine Ragoobar's house. Mootoo went to the car and picked up a piece of iron. I turned back and I was going away and he struck me with the iron on the mole of my head. I saw Johnson Ramtahal with two stones. I saw Roodal Moonoo with a stick, also Ragoobar. They ran me down. I ran to my father's house. They followed me. My father never came up with a cutlass. He never said anything. When I ran in my father's yard they started to throw stones. I was bleeding. I went under my father's house. They threw stones on my father's house. I was bawling. I did not see what happen. I did chop Mootoo. He rushed me to hit me and I chop him on his back. I see my father chop him. I do not remember who chop first, whether it was my father or me chop first. I chop him under his arm. I never saw Sundar Singh. Magna was not there. Roodal leave and ran."

That is his statement. He was cross-examined by Counsel and you would remember what he said. You would remember how he struck you in the box, what impression he made upon your minds; you would have seen him. And then two witnesses were called. It is true he did say in answer to Counsel that he chopped this man when the man was backing him.

A witness called Enos Davis came and he told you that there was this talk there by his house, and that Mootoo came up and talked to Deonath, that his car was out there. Mootoo told Deonath that he liked to take advantage of little boys. There was this argument. He Davis spoke to them, told them to stop. He tried to separate them and he received two lashes from a bucket on his shoulder. He told them then that he would leave.

In the High Court

No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

—
No. 27

Summing Up
24th May 1965
(Continued)

Then Ramtahal came with two stones. He left and went inside. He then went on, he saw Deonath in front with Mootoo behind, with Deonarine and Ramtahal running down the road. That is his evidence.

Then you have David Wint. He is a watchman too, he said, and you might feel that in the habit of the watchmen in this case they might perhaps, because they work in such secluded surroundings, wish to make themselves persons of importance, and to place themselves in the very hub of lively activity. Well, David Wint says he was there and he saw what happened. That is the evidence of David Wint. I do not elaborate on it. Both Counsel dealt with him. Counsel for the accused pressed upon you that Wint is a man of integrity and truth and that you must accept his evidence. Counsel for the Crown says that Wint has not been wholly truthful. Well, you will make up your minds about that.

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You will notice that in both of the stories told by these two men that they both speak of Mootoo striking out at them. The father says that Mootoo struck out at him, the son says that Mootoo struck out at him also. It really does not matter whether their stories are co-ordinated, and whether Mootoo suffering the injury which he had would have been bold enough too to strike out at another man. What is clear is that they both said that, and therefore you will have to consider whether they resisted in self defence. One of them has talked about pelting stones, and so you will have to consider whether this was in defence of property.

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Well, I will direct you on the law relating to self defence and the law relating to killing in defence of property. If two men fight on a sudden quarrel and one of them after a while endeavours to avoid any further struggle and retreats as far as he can until at length no means of escaping his assailant remains to him and he then turns round and kills his assailant in order to avoid destruction, this homicide is excusable as being committed in self defence, and, malice apart, it is little matter in such a case which struck the first

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10 blow at the beginning of the conflict. And
the same of course applies where one man
attacks another and the latter without
fighting flees and then turns round and kills
his assailant as above mentioned. But in
either of these cases, to say that it was
homicide in self defence it must appear
that the party killing had retreated either
as far as he could by reason of some wall,
ditch or other impediment, or as far as the
fierceness of the assault would permit him.
For the assault may have been so fierce as
not to allow him to move a step without
manifest danger to his life or enormous
bodily harm, and then in his defence, if there
is no other way of saving his life, he may kill
his assailant instantly. The distinction
between this kind of homicide and manslaughter
is that in the former the slayer could not
20 otherwise escape although he would; in the
latter he would not escape if he could.

30 If a man attacks me I am entitled to defend
myself, and if difficulty arises in drawing
the line between mere self defence and fighting,
the test is this; a man defending himself does
not want to fight and defends himself solely to
avoid fighting. Then, supposing a man attacks
me and I defend myself not intending or desiring
to fight but still fighting, in one sense to
defend myself, and I knock him down and thereby
unintentionally kill him, that killing is
accidental. Not only is the manner of the
defence to be considered, the time also is
important. If the person assaulted does not
fall upon the aggressor until the affray is
over or when he is running away, that is
revenge and not defence. Neither under the
cover of self defence will the law permit a man
to free himself from the guilt of deliberate
40 murder.

Now, members of the jury, it is suggested
to you that this man came there and attacked
then with a piece of iron and by way of
resisting the use of this piece of iron the
wounds which have been described to you were
inflicted. Can you say that this behaviour
satisfies the elements of self defence which I
have just described? If you believe it does, then

In the High
Court

No.27

Summing Up
24th May 1965
(Continued)

this killing would be excusable. But you must bear in mind what I have told you. Self defence arises where a man, faced with danger to his life - this means fear of destruction - raises his arm to resist. That is self defence.

Now, as I say, there was what might be described as a rolled-up plea here, because one of the accused did refer to the use of stones. Let me tell you at once about killing in defence of property or of person. If any person attempts to rob or murder another in or near the highway or in a dwelling house, or attempts burglariously to break into a dwelling house in the night time, and is killed in the attempt, the slayer is entitled to acquittal, for the homicide is justifiable and the killing was without felony. That is what the Common Law has said and has said for many many years. The same rule applies where a man is killed in attempting to burn a house, or where a woman kills a man who attempts to ravish her, or where a man is killed in attempting to break open a house in the daytime with intent to rob or to commit any other forcible and atrocious crime. The killing need not be in self defence but may be in defence of another against his person or property to which felony is threatened; and not only the party whose personal property is thus attacked but his servants or other members of his family or even strangers who are present at the time are equally justified in killing the assailant. That is the law. You will have to apply that law to the facts.

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It has been said to you that stones were pelted at this house. I tell you, the law talks about atrocious felony. Now, what is pelting of stones? The pelting of stones is merely an offence under the Summary Offences Ordinance, Chapter 4 No. 17. In section 70 subsection 1 "Every person who throws or discharges any liquid or lights any bonfire in the street shall be liable to a fine of \$24", and section 75 of the same Ordinance which is rather more serious: "Every person who throws or discharges any stone or other missile to the annoyance, damage or danger of any person shall be liable to a fine of

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10 §240 or to imprisonment for six months".
 A statutory offence of throwing stones. A
 person is justified in defending his property
 where an atrocious felony is being committed;
 a person is attempting to burn your house or
 to burgle it at night time, and threatens to
 do serious felonious damage to your property,
 the law says you can defend it. But can you
 say whether the circumstances deposed to in
 this case would justify you in taking that
 view? Well; that is the case for the accused.

In the High
 Court

—
 No.27

Summing Up
 24th May 1965
 (Continued)

Is there any aspect of this matter Mr.
 Crawford, Mr. Permanand, that you would wish
 me to put to the jury?

Mr. Crawford: No, M'Lord.

Mr. Permanand: No, M'Lord.

20 His Lordship: Mr. Foreman, Members of the
 Jury, I have directed you on the facts and
 on the law. You will have to examine the
 facts first of all, discover the truth.
 Having done so you will apply the law upon
 which I have directed you, and you will then
 arrive at your verdict. This is a case in
 which it seems to me that the jury ought to
 arrive at a verdict. There is nothing com-
 30 plicated in it. It has taken more than a week
 and perhaps my summing-up has taken rather
 longer than you would have expected. But there
 is nothing complicated in this case. If you
 understand the principles which you must apply
 in assessing the quality of the witnesses'
 testimony, and if you understand - and this is
 of vital importance - if you understand the
 full measure of the oath which you have taken,
 then you should have no difficulty in arriving
 at a verdict. It is a miscarriage of justice
 no less if an innocent person is convicted of
 a crime; it is not generally known though it
 is generally believed that it is equally a
 40 miscarriage of justice for the guilty to be
 acquitted. I do say in this case that if you
 believe what the Crown has put before you, then
 your duty would seem clear. If you are in some
 doubt about it, then the Crown will not have
 fulfilled its function, its burden, and you will
 have to acquit the accused. If in examining the

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

statements of the accused given here in Court you believe them, then you must acquit them. If what they say raises some doubt in your minds as to how this thing occurred and you are not sure, then again you must acquit them. If you do not believe them you cannot convict because you believe they are liars. It is on the case for the Crown that you must be satisfied so that you can feel sure that guilt has been established. And if you are sure that guilt has been established, then it must be your firm duty to give a verdict accordingly. I have directed you both on the offences of murder and of manslaughter. As to whether the facts justify a verdict on either of those two offences is within your sole province, and you will now please consider your verdict.

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The Jury retired.

The Jury returned.

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His Lordship: Mr. Foreman, I understand you need further directions.

Mr. Foreman: Yes, the jury would like to be repeated the directions on self defence, manslaughter, malice express and malice implied, murder, murder premeditated.

His Lordship: Mr. Foreman, members of the jury, it seems that I was not as clear in my directions this morning as I thought I was. However, in so far as murder and manslaughter are concerned, I would merely repeat what I said this morning. The offence of murder is committed where a person of sound mind and discretion unlawfully kills any reasonable creature under the Queen's peace with malice aforethought, either express or implied. Manslaughter is committed where a person of sound mind and discretion unlawfully kills another person without malice express or implied. In the one case, that is murder, the essential difference between that offence and manslaughter is that there must be malice in the killing. Both murder and manslaughter are unlawful killing, but the offence becomes murder if there is malice, whether express malice or

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10 implied malice, and it is manslaughter if
 there is no malice. Now, express malice
 can be found where a person says I will
 kill you, or where a person says I will do
 you grievous bodily harm, or makes a
 statement which will amount to either one
 or the other. The evidence in this case
 is not that any of the accused said that he
 would kill the victim, but if you believe
 what the witness Robert Jacob says, then
 there is evidence that one of the accused,
 the father, said that he intended to open
 the victim's back, he had a cutlass with
 him. What in ordinary language does opening
 the back mean if a person has a dangerous
 weapon but cutting open the back? If you
 believe that he said that he intended to do
 so, and you believe that he did so, then
 20 that would be evidence of express malice and
 the unlawful killing would be murder. If you
 are in some doubt as to whether he used those
 words, then you may consider whether there is
 implied malice. Implied malice means merely
 that although the person does not say what he
 intends to do you may come to a conclusion as
 to what the person intended by the person's
 actions. Conclusions can be drawn from what
 people say and from what they do. In cases
 30 where implied malice arises the jury would
 have to find that the act causing death was
 a deliberate cruel act done intentionally and
 without provocation. If you find that the act
 of cutting was a deliberate cruel act, if you
 find that the two accused did it voluntarily -
 that is, no one forced them to do it but they
 did it themselves - if you find that it was
 done intentionally - that is, the cutting was
 done with the intention of inflicting the
 wounds - and you find that it was unprovoked,
 40 then the offence would be murder.

Now, it is the Crown's duty, as I said
 this morning, to establish that the act was done
 without provocation, and not in self defence.
 If you find that the act was done as a result
 of provocation, then malice would be negatived;
 there would be no malice and the offence would
 be manslaughter. Now, what does provocation
 mean? I said to you this morning what
 provocation means, and I will again read to you

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

what has been said about provocation, what would amount to provocation. And the evidence here is that the deceased chucked Deonath and Deonath chucked him back. The accused say that Deonath was chased by the victim Mootoo Sammy. The accused say there was a fight. If you believe that, then you will have to fit in what you believe with what the law is. Provocation is some act or series of acts done by the deceased to the accused which would cause in any reasonable person - we are all presumed to be reasonable people - and actually causes in the accused a sudden and temporary loss of self control, rendering the accused so subject to passion as to make him for the moment not master of his mind. Put another way, where on a charge of murder there is evidence on which the jury can find that the person charged was provoked, either by things done or by things said, or by both together to lose his self control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury. And in determining that question the jury shall take into account everything done and said according to the effect which in their opinion it would have on a reasonable man. 10 20

Now, according to the witnesses for the Crown, the deceased, Mootoo Sammy, chucked the man Deonath, there was some argument between them, Deonath chucked him back, and you may consider that one chuck was recompense for the other chuck. The question is whether whatever it was that Mootoo Sammy did to him by way of chucking, whether that was adequate to cause Deonath to lose his reason temporarily. On the other hand the accused says that while they were in Roberts Trace Sammy struck this man on his head. That was what was said by the accused here. In his statement he says that he got struck on the head near his father's house. But, if you believe that this man was struck on the head at Roberts Trace with this piece of iron, then you will have to consider whether that itself may have been a sufficient act of violence to him to have caused him to lose his self control. But in these matters you cannot indulge in speculative and spurious arguments. His story is that a piece of iron was used. The Doctor 30 40

says that when he examined him he found a superficial abrasion on his skull. The evidence of the Crown witness is that he inflicted that injury with a stick after the cutting. Well, those are the facts. You will have to decide what is the truth. I cannot help you about that. You are reasonable, mature adults, you will have to decide what is the truth. But if you believe that a piece of iron was used, then you will have to consider whether the use of a piece of iron on the head of a man would be adequate to cause that man to lose his judgment temporarily and cause him to be so provoked that, not at the same time but a little time after, he inflicts this injury.

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Now, as to premeditated murder. I explained to you this morning that malice and premeditation are not the same thing. Premeditated murder could only arise where a person sits down and plans a murder. There is no evidence of that in this case, and I tried to point out that some people have a notion that premeditation is a part of crime. That is absurd. Malice and premeditation have no connection whatsoever. Malice arises where a person expresses what he intends to do, or where from the act he has committed you can infer that he intended to cause the injury which was caused.

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Now, as to self defence. Both of these accused say that when in the yard of Ramnath, Mootoo Sammy came there at some time having chased Ramnath. The man Ramnath says Mootoo Sammy fired a blow at him with this piece of iron, but he went on to say that it was after the man had turned away and was backing him that he struck out at him with a weapon which he had, which was of course a cutlass. I read to you what is self defence and I explained to you that self defence is not a creation of the law, it is a matter of instinct which is protected by the law. It is action which can make a killing excusable. Self defence renders a killing excusable in that if you find on the evidence - and I tell you that it would be very amazing to so find - if you find on the evidence that these two men were defending themselves, and

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In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

that they were in fear of their death and therefore they killed this man, or injured him in such a way that death resulted ultimately, then the law says that such a killing is excusable and they would have to be acquitted. Self defence would not reduce the crime of murder to manslaughter; self defence makes a homicide excusable. But I repeat what I said. If two men fight upon a sudden quarrel and one of them after a while endeavours to avoid any further struggle, and he retreats as far as he can until at length no means of escaping his assailant remains to him, and he then turns round and kills his assailant in order to avoid destruction, this homicide is excusable as being committed in self defence, and, malice apart, it is little matter in such a case which struck the blow first at the beginning of the contest. And the same of course applies where one man attacks another and the latter without fighting flees and then turns round and kills his assailant. But in either of these cases, to show that it was homicide in self defence it must appear that the party killing had retreated, either as far as he could by reason of some wall, ditch or other impediment, or as far as the fierceness of the assault would permit him, for the assault may have been so furious as not to allow him to move a step without manifest danger of his life or enormous bodily harm, and then in his defence, if there is no other way of saving his own life, he may kill his assailant instantly. The distinction between this kind of homicide and manslaughter is that in the former the slayer could not otherwise escape, in the latter the slayer would not escape if he could. I explained this morning that self defence makes a homicide excusable. A person who is held to have killed in self defence is entitled to be acquitted, but it arises where a person without any means of saving his life but to assault his assailant does so and kills his assailant. That is self defence.

What is the evidence here? If you believe the evidence of the father, well, he says that he did not see his son do anything at all, but that it was against him that Mootoo Sammy made

In the High
Court

No. 27

Summing Up
24th May 1965
(Continued)

10 the blow, and he struck out. The son says
he did not see his father do anything at
all, but it was against him that Mootoo
Sammy made the blow, and after he had turned
going his way he struck him on his back. Well,
I said that you were reasonable people, that
you were mature, that you would view your
responsibility seriously and soberly. It
would be amazing, to say the least of it,
if one found on the evidence in this case that
self defence arose. However, I have given you
the legal directions on murder and manslaughter,
and the way that provocation could reduce the
offence of murder to manslaughter. I have
distinguished between what you describe as
premeditated murder and murder resulting from
lack of malice. Is there any other matter,
Mr. Foreman, which your colleagues wish to
raise?

20 Mr. Foreman: No your Lordship.

The Jury retired.

NO. 28

VERDICTS AND SENTENCE

No. 28

Verdicts and
Sentence
24th May 1965

The Jury returned.

Clerk: Mr. Foreman, members of the jury,
have you arrived at an unanimous verdict with
respect to the accused Ramnath Mohan?

Mr. Foreman: Yes, we have.

30 Clerk: How say you, is the prisoner guilty or
not guilty?

Mr. Foreman: Guilty as charged.

Clerk: Mr. Foreman, members of the jury, have
you arrived at an unanimous verdict with
respect to the accused Deonath Ramnath?

Mr. Foreman: We have.

Clerk: How say you, is the prisoner guilty
or not guilty?

Mr. Foreman: Guilty as charged.

SENTENCE.

40 Both accused sentenced to death by hanging.

GROUND OF APPEAL (Both
Appellants)

In the Court
of Appeal

No. 29

Grounds of
Appeal
(Both
Appellants)

TRINIDAD

IN THE COURT OF APPEAL
(CRIMINAL)

B E T W E E N:

RAMNATH MOHAN and
DEODATH RAMNATH

Appellants

-and-

THE QUEEN

Respondent

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T A K E N O T I C E that the following,
among others, will be Grounds of Appeal in the
above matter:-

1. The learned Judge misdirected the Jury
in that:-

(a) He took away from their consideration
the evidence of the witnesses, Dr.
Hosein, Ramlal Sooknanan, Roodal
Moonoo and Sundar Singh.

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(b) He failed to direct the jury
properly or at all on the question
of self-defence.

(c) On the Jury returning for further
directions on the law relating to
murder, manslaughter and self-
defence, after directing them on
the law he directed them on the
facts of the case.

(d) He took away from the consideration of
the Jury the question of self-defence

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(e) His Summing Up amounted to a speech
for the prosecution.

2. The verdict is unreasonable and cannot be supported having regard to the evidence.

In the Court of Appeal

No. 29

TO: The Registrar,
Supreme Court,
Red House,
PORT OF SPAIN.

E. Gaston Johnston
of Counsel

Grounds of Appeal
(Both Appellants)
(Continued)

NO. 30

No. 30

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FURTHER GROUNDS OF APPEAL

Further Grounds of Appeal
(1st Appellant)

TRINIDAD AND TOBAGO:

IN THE COURT OF APPEAL

B E T W E E N:

RAMNATH MOHAN Appellant

-and-

THE QUEEN Respondent

20 TAKE NOTICE that at the hearing of this Appeal on Monday the 25th day of October 1965, the Appellant will seek the leave of the Court of Appeal to add the following grounds of Appeal:-

The Learned Trial Judge misdirected the Jury in that:-

30

- (a) he failed to direct them that the case against each of the appellants must be considered separately
- (b) he failed to direct them sufficiently or at all on the standard of proof resting on an accused person
- (c) he directed them that the evidence was that "it was after the man (the deceased) had turned away and was backing him that he struck out at him with a weapon."

In the Court
of Appeal

No. 30

Further Grounds
of Appeal
(1st
Appellant)
(Continued)

(d) he withdrew from them defence
Counsel's submission that the case
for the prosecution was a Parchait.

/s/ Allan Alexander
Counsel for the Appellant.

TO: The Registrar,
Court of Appeal,
Trinidad House,
Port of Spain.

10

The same
(2nd
Appellant)

(Title)

T A K E N O T I C E that at the hearing
of this Appeal on the 25th day of October, 1965,
the Appellant will seek the leave of the Court
of Appeal to add the following grounds of
Appeal:-

The Learned Trial Judge misdirected the
Jury in that:

- (a) he failed to direct them that the case
against each of the appellants must
be considered separately
- (b) he failed to direct them sufficiently
or at all on the standard of proof
resting on an accused person
- (c) he directed them that the evidence was
that after the deceased had turned
going his way the appellant struck
him on his back
- (d) he withdrew from them defence
Counsel's submission that the case
for the prosecution was a Parchait.

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/s/ Allan Alexander
Counsel for the Appellant

TO: The Registrar,
Court of Appeal,
Trinidad House,
PORT OF SPAIN.

NO. 31
JUDGMENT

In the Court
of Appeal

No. 31

25th October, 1965.

Coran: Sir Hugh Wooding, C.J.
A.H. McShine, J.A.
C.E.G. Phillips, J.A.

Judgment
25th October 1965

No. 67 of 1965.

No. 68 of 1965.

10 Ramnath Mohan and Deodath Ramnath v.
Regina.

Judgment delivered by the Chief Justice:

20 The two appellants were convicted of
the murder of a man named Mootoo Sammy on
October 4, 1964 in the county of Caroni.
The prosecution case was that the murder
resulted from a comparatively trifling
incident touching a boy who was described as
a "crazy boy" - he was apparently somewhat
mentally defective. The appellant Deodath
30 Ramnath gripped him by the hand and either
wrung it or slapped him, causing the deceased
Mootoo Sammy to protest, and it seems that
this protest led to talk about somebody being
a 'bad John'. The next thing that occurred
was that Ramnath Mohan, the father of Deodath
Ramnath, on hearing of what had been happening,
came on the scene with a cutlass while Deodath
Ramnath himself went off to his home not very
far off. When the deceased saw Deodath Ramnath's
40 father coming towards him with a cutlass he
immediately ran away, but his course of flight
took him in the direction of the home where
Deodath Ramnath lived with his father. When he
got near there, Deodath Ramnath suddenly emerged
from behind a pepper tree on the boundary of the
land and he had a cutlass in his hand. Seeing
this, the deceased turned in an endeavour to
escape from this further attack but he was
unable to do so as he was chopped on the leg.
The chop was such a violent one that it cut
through an inch of bone, and he fell there
suffering not merely from the wound but from a

In the Court
of Appeal

No. 31

Judgment
25th October 1965
(Continued)

resulting compound fracture. And while he was there on the ground, the father came along with his cutlass and gave him another chop - 15 inches long, cutting through the muscles of the back, flowing from the right armpit right across to the left side of the body. Other blows were aimed at him which he tried to parry with a garbage can and from which he suffered other minor wounds, but it was the first two major wounds which occasioned his death.

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If the facts of the prosecution case were accepted by the jury the appellants were clearly guilty of murder. However a number of defences were raised, and it became the learned judge's duty not merely to put the facts as tendered in evidence by the various witnesses who spoke to the matter - those witnesses included the two appellants - but he had to put the law in respect of any defence which was raised expressly or which was in any way adumbrated.

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First of all, perhaps we may deal with the last ground of appeal which was argued, namely, that the learned judge withdrew from the jury any consideration of the submission that the case for the prosecution came about as a result of a "panchayat". The learned judge pointed out to the jury that they could not import any of their own knowledge about matters of the kind, that they must never lose sight of the fact that the material they had to consider was limited to the evidence before them, in conformity with the oath which every juror has to take, together (as he went on to say) with such inferences as might properly be drawn from that evidence. It is all very well to submit that witnesses should not be believed because of contradictions in their evidence or because of bias through family relationships or for other reasonable cause but, as the learned judge went on to say, the jury would not be performing their functions properly if they ventured into speculative conclusions about other matters for which there was no foundation on the evidence.

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There is not an iota of evidence to suggest that any "panchayat" was held. The only thing that could be suggested was that the eye-witnesses for the Crown were all or nearly all of them related. That was admitted by them in evidence. But it was admitted also by at least one of the appellants that one of these very witnesses was an old friend of his and was in some way related to the appellants themselves. Indeed the witness to whom I refer, a man named Jacob I think, said that the deceased and the accused had common relatives because three sisters had married into their respective families. So, it was purely speculative to suggest that in this case any "panchayat" was held so as to secure evidence or to ensure its holding together in such a way as would convict the two accused. Indeed, there was specific evidence in the case on the part of the man Jacob that there was never any "panchayat" held in connection with this case at all.

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Five other grounds of appeal have been argued out of the several that were filed. The first of those five is that the learned judge withdrew the defence of self-defence. It is unnecessary, we think, to deal with this at any length, based as it is upon one passage in the summing-up in which it appears that the judge had said that the killing would be unlawful. The context in which that appears is such as to lead us to the conclusion that he could not have been speaking specifically of this case but rather of the illustration that he was putting before the jury. And indeed he would have been stultifying himself if he had meant what is suggested - that there was no need to consider self-defence and that the jury should only consider murder or manslaughter. We say so because he went on later in his summing-up to give long and detailed directions on what constitutes self-defence and defence of property, which were defences raised by counsel. So much did the jury themselves appreciate that he was not withdrawing self-defence from their consideration that after they had retired for some time to consider their verdict they sent out to ask for further directions on self-defence among other things.

In the Court
of Appeal

No. 31

Judgment
25th October
1965
(Continued)

In the Court
of Appeal

No. 31

Judgment
25th October
1965
(Continued)

The learned judge on their return to court gave them full and ample directions about it, indeed not only full and ample but accurate, to the extent that learned counsel has quite frankly admitted that he could not possibly quarrel with the directions then given.

The next ground was that the learned judge did not direct the jury properly or at all on the question of self-defence. This was of course on the footing that the defence was not withdrawn from the jury. Certain directions in the original summing up were referred to, but we do not consider them to be wrong at all. However, whatever might be said with respect to those directions, there can be no doubt that the jury having returned and asked for full and proper clarification of the subject would be paying particular attention to what the learned judge said then. In our view the learned judge merely repeated in a much more elaborate way the things he had said previously and counsel has had to admit that no complaint could be made about his directions after their return. So, when you find a jury coming specifically to ask for further directions on self-defence and they are given them clearly and unambiguously, it is in our view quite impossible to say that something which had been said before may have been interpreted wrongly or that the jury may have been misled by anything that had first been said to them by the judge.

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The third of these five grounds of appeal turned on statements which were attributed by the learned judge to the two appellants. In one case - in the case of the father, Ramnath Mohan - it seems that the learned judge was in error in attributing a statement to him when it had really been made by the other appellant, his son. That was certainly an error but, by itself, is far from sufficient in a case such as this to cause this court or any court to vitiate the verdict recorded against him. As regards the other appellant it is clear from an examination of the evidence that the learned judge put correctly to the jury the statement which he said that that appellant had made in the course of his evidence. So, there is no need to go into the matter further.

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Another ground put forward was that the learned judge discussed with the jury the validity of a defence to a charge of homicide of acting in defence of property. It was said that no such defence was tenable on the facts of the case and that by putting it to the jury, they might well have had their minds deflected from the essential points of the case. Unfortunately, a learned judge must charge the jury as regards any defence which has factually been raised or which might reasonably have been raised, even though it was not, on the evidence before him. And while we entirely agree that the defence of defending one's property could not properly be raised in this case, the fact is that it was raised by counsel for the defence at the trial. Three times in the course of his summing-up the learned judge made it very clear that counsel who then appeared on behalf of the appellants had put forward this as a substantial ground of defence. So it was essential for him to deal with it in order that the jury should have a clear appreciation of what has to be proved to establish it.

The last of the grounds put forward was that certain witnesses for the Crown had an interest of their own to serve and it was therefore necessary for the learned judge to direct the jury that their evidence should be corroborated by independent testimony. This phrase - 'interest of their own to serve' has never been exhaustively defined, but in our view it certainly does not apply to the witnesses in this case, except possibly the witness Deonarine Ragoobar who admittedly did strike Deodath Rannath, that is the younger of the two accused, on the head at some time during the course of what took place. His evidence was that he did so in order to try and stop the two men from continuing their violent and vicious attack on the deceased, and it was merely on that account that he struck Deodath Rannath on the head with a bit of wood which he had in his hand. The medical evidence with

In the Court
of Appeal

No. 31

Judgment
25th October
1965
(Continued)

In the Court
of Appeal

No. 31

Judgment
25th October
1965
(Continued)

respect to the resulting injury to the head was conformable with his evidence on the point. Nevertheless, it might well have been said in respect of him that he was seeking to put the best colour on what he had done and, in view of the fact that the defence was alleging that he was an assailant and that he had joined the deceased in attacking Deodath Rannath, it might perhaps have been said that he had an interest of his own to serve. Not so however the other two witnesses neither of whom was in any way involved in any attack so far as their own evidence was concerned. And it would be an extraordinary feature if the defence had merely to allege that the witnesses for the prosecution committed certain acts or were guilty of certain faults, which would suggest an interest of their own to serve, in order to make it become imperative for the judge at the trial to say that their evidence ought to be corroborated. In our view, the learned judge acted correctly in putting to the jury that they had to determine whether they believed those three witnesses who were called for the Crown and were satisfied that they had spoken the truth. If they believed them, it is plain that in respect of two of them at any rate they would have no interest whatever of their own to serve. On the other hand, if they had any doubts about the acceptability of the evidence of those two men it would mean that the doubts had arisen by reason of the suggestions by the defence upon which they are here relying. The fact that the jury convicted the appellants indicates beyond a peradventure that they rejected the suggestions about self-defence and accepted the evidence of the prosecution in all relevant respects.

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So, looking at the various grounds of appeal which have been argued - and we need not trouble ourselves with the several others filed but not argued - there is nothing in our view to be said in favour of the appellants. Their appeals must accordingly be dismissed and their conviction and sentences affirmed.

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Mr. A. Alexander appeared for the appellants.

Mr. N. Hassanali, Acting Solicitor-General appeared for the Crown.

ORDER GRANTING SPECIAL LEAVE
TO APPEAL IN FORMA PAUPERIS
TO HER MAJESTY-IN-COUNCIL

Order granting
special leave to
appeal in forma
pauperis to
Her Majesty in
Council
6th April 1966

L.S.

AT THE COURT AT BUCKINGHAM PALACE

The 6th day of April, 1966

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

10	PRIME MINISTER	MR MARSH
	LORD PRESIDENT	MR PRENTICE
	LORD PRIVY SEAL	CHANCELLOR OF THE
	MR SECRETARY LEE	DUCH OF LANCASTER
	MR SECRETARY HUGHES	

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 23rd day of March 1966 in the words following viz.:-

20 "WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition and Supplemental Petition of Rannath Mohan and Deodath Rannath in the matter of an Appeal from the Supreme Court of Trinidad and Tobago (Court of Appeal) between the Petitioners and Your Majesty Respondent setting forth that the Petitioners are desirous of obtaining

30 special leave to appeal in forma pauperis to Your Majesty in Council from the Judgment of the Court of Appeal of the Supreme Court of Trinidad and Tobago dated the 25th October 1965 whereby the said Court dismissed the Petitioners' Appeal against their convictions and sentences to death at the Port of Spain Assizes on the 24th May 1965 for the offence of murder: And humbly praying Your Majesty in Council to grant them special leave to appeal in

In the Privy
Council

No. 32

Order granting
special leave
to appeal in
forma pauperis
to Her Majesty
in Council
6th April 1966
(Continued)

forma pauperis from the Judgment of
the Court of Appeal of Trinidad and
Tobago dated the 25th October 1965 and
for further or other relief:

"THE LORDS OF THE COMMITTEE in
obedience to His late Majesty's said
Order in Council have taken the humble
Petition and Supplemental Petition into
consideration and having heard Counsel
in support thereof and in opposition
thereto Their Lordships do this day
agree humbly to report to Your Majesty
as their opinion that leave ought to
be granted to the Petitioners to enter
and prosecute their Appeal in forma
pauperis against the Judgment of the
Court of Appeal of Trinidad and Tobago
dated the 25th day of October 1965:

10

"And Their Lordships do further
report to Your Majesty that the authenti-
cated copy under seal of the Record
produced by the Petitioners upon the
hearing of the Petition ought to be
accepted (subject to any objection that
may be taken thereto by the Respondent)
as the Record proper to be laid before
Your Majesty on the hearing of the
Appeal".

20

HER MAJESTY having taken the said Report
into consideration was pleased by and with
the advice of Her Privy Council to approve
thereof and to order as it is hereby ordered
that the same be punctually observed obeyed and
carried into execution.

30

Whereof the Governor-General or Officer
administering the Government of Trinidad and
Tobago for the time being and all other persons
whom it may concern are to take notice and
govern themselves accordingly.

W.G. AGNEW

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101.

EXHIBITS

"D.J.1." CAUTIONED STATE-
MENT - RAMNATH MOHAN

Southern Main Road
Warrenville

Monday 21st September 1964

EXHIBITS

"D.J.1."
Cautioned
Statement
Rannath Mohan
21st September
1964

135 of 1965

10 RAMNATH MOHAN also called Dhaila of Southern
Main Road, Warrenville after having been
cautioned as follows: You are not obliged
to say anything but anything you say may be
given in evidence. States, I don't know
nothing about no chopping up business you
talking about all I know was that at about
9 o'clock tonight Monday 21st September, 1964
I was at home and I see my son Deonath run in
by me. I asked him what happened and he say
that three fellas run he down then I see
20 Mootoo take up three stones and pelt at my house,
my son Deonath then come back on the road and he
and Mootoo start to fight and no body part them
and when everything cool down I see Mootoo
bleeding and my son did bleeding too on he head
and he went away. That is all I know, I did
not see nobody with cutlass.

his

Rannath X Mohan
mark 21.9.64

30 I hereby certify that I took this statement from
Rannath Mohan at Southern Main Road, Warrenville
on Monday 21st September, 1964 at 11.15 p.n.
I read it over to him, he said it was correct
and made his mark.

David Jack

Police Constable No.5341

21/9/64

EXHIBITS

"D.J.2"
 Cautioned
 Statment
 Deonath
 Ramnath
 22nd September
 1964.

"D.J.2" CAUTIONED STATEMENT,
 DEONATH RAMNATH

135 of 1965

General Hospital,
 Port of Spain.

Tuesday 22nd September, 1964

Deonath Ramnath of Warrenville, Cunupia after having been cautioned as follows: You are not obliged to say anything but anything you say may be given in evidence.

Sgd. Deonath Ramnath

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states, Last night Monday 21st September, 1964 about 9 o'clock in the night I was by Mr. Enos house at a christening and I leave Mr. Enos house and was going home and I meet a little boy like myself and I hold he hand and he said "Let go me focking hand." I lego his hands and he ran a little way off and curse me telling me to mind ny nother's cont. At the same time Mr. Mootoo and Mr. Deonarine come out from by Mr. Deonarine house and Deonarine came up to me and tell me that the boy was crazy. I tell Deonarine I did not know that and Mootoo come up to me and tell me that he see I wring up the boy hand and I tell Mootoo if he see I wring up the boy hand to do something for it and I was walking away when Mootoo run and pick up a piece of iron from his car and he ran me down and I went to my father's house on the Main Road and hide. After about ten minutes and I did not see any body on the road I came out and it had a pepper tree and Mootoo was inside the pepper tree and he jumped out and hit me on ny head with the piece of iron and ny head started to bleed and I see Deonarine coming with a cutlass and while I waiting for something to go to the station to make a report Deonarine hit me on my right foot with a piece of wood and he dropped the piece of wood and rushed me with the cutlass, he made a chop at me I got away from it and the cutlass cut Mootoo on his hand and Mootoo fall down on the pavement

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and people pick him up and carry him by the Hospital and I stopped a car and went to the station and made a report but I did not cut Mootoo because I had no cutlass in my hand and my father was only standing on the pavement, he did not do nothing.

EXHIBITS

"D.J.2"
Cautioned
Statement
Deonath
Rannath
22nd September
1964
(Continued)

10 Deonarine tell me when he was coming with the cutlass that he would cut up my mother's cont because he had that for me a long time.

Sgd. Deonath Rannath
22nd/9/1964

I hereby certify that I took this statement from Deonath Rannath at General Hospital Port of Spain on Tuesday 22nd September, 1964 at 12.30 p.m. I read it over to him, he said it was correct and signed it.

David Jack
Police Constable No. 5341
22/9/64

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EXHIBITS

F.B.I. CAUTIONED STATEMENT,
DEONATH RAMNATH

F.B.I.
Cautioned
Statement,
Deonath Rannath
5th October 1964

135/65

Ex. F.B.1

Chaguanas Police Station.

5th October, 1964.

30 Deonath Rannath, having been charged by Cpl. 3788 Best with the murder of Mootoo Sammy at Southern Main Road, Warrenville, Cunupia, on Sunday 4th October 1964, and having been cautioned as follows:-

Do you wish to say anything in answer to the charge. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

/s/ Deonath Rannath -
5.10.64.

104.

EXHIBITS

F.B.I.
Cautioned
Statement,
Deonath Ramnath
5th October 1964
(continued)

States:

I have nothing to say.

/s/ Deonath Ramnath.

5.10.64.

Witness: A. Bindoo Cpl. 4838 - 5.10.64.

I hereby certify that I took this statement from Deonath Ramnath at Chaguanas Police Station at 8.55 p.m. on Monday 5th October 1964, I read it over to him, he said it was correct and signed it.

10

/s/ Frank Best - Corporal of
Police No. 3788

5.10.64.

EXHIBITS

F.B.2.
Cautioned
Statement,
Ramnath Mohan
5th October 1964

F.B.2. CAUTIONED STATEMENT,
RAMNATH MOHAN.

135 of 1965

F.B.2

Chaguanas Police Station,

5th October, 1964

20

Ramnath Mohan, having been charged by Cpl. 3788 Best, with the murder of Mootoo Sammy at Southern Main Road, Warrenville, Cunupia on Sunday 4th October, 1964, and having been cautioned as follows:-

Do you wish to say anything in answer to the charge, you are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

30

his
/s/ Ramnath X Mohan
mark

Witness: A. Bindoo Cpl. 4838.

105.

States:

I have nothing to say Sir.
his
/s/ Rannath X Mohan
mark

Witness: A. Bindoo Cpl. 4838
5.10.64.

10 I hereby certify that I took this
statement from Rannath Mohan at Chagaunas
Police Station at 9 p.m. on Monday 5th
October, 1964. I read it over to him,
he said it was correct and made his mark.

/s/ Frank Best Corporal of
Police No. 3788.

5.10.64.

EXHIBITS

F.B.2.
Cautioned
Statement,
Rannath Mohan
5th October 1964
(Continued)

IN THE PRIVY COUNCIL

No. 10 of 1966

ON APPEAL FROM

THE SUPREME COURT OF TRINIDAD AND TOBAGO

(THE COURT OF APPEAL)

B E T W E E N:

RAMNATH MOHAN (Accused No. 1)

- and -

DEODATH RAMNATH (Accused No. 2)

- and -

THE QUEEN

Appellants

Respondent

RECORD OF PROCEEDINGS

A.L. BRYDEN & WILLIAMS,
20 Old Queen Street,
London, S.W.1.

Solicitors for the Appellants.

CHARLES RUSSELL & CO.
37, Norfolk Street,
London, W.C.2.

Solicitors for Respondent