

IN THE PRIVY COUNCIL

No. 46 of 1961

22

1962

ON APPEAL
FROM THE SUPREME COURT OF FIJI
(APPELLATE JURISDICTION)

B E T W E E N

JANME JAI PRASAD and
JAIMUNI PRASAD

Appellants

- and -

COMPTROLLER OF CUSTOMS

Respondent

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

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
30 MAR 1963
25 RUSSELL SQUARE
LONDON, W.C.1.

68237

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COMPTROLLER OF CUSTOMSRespondentRECORD OF PROCEEDINGSINDEX OF REFERENCE

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ON APPEAL
FROM THE SUPREME COURT OF FIJI
(APPELLATE JURISDICTION)

B E T W E E N

JANME JAI PRASAD and
JAIMUNI PRASAD Appellants

- and -

COMPTROLLER OF CUSTOMS Respondent

10

RECORD OF PROCEEDINGS

No. 1

C H A R G E

CRIMINAL PROCEDURE CODE (CAP.4)

Form 2 (Section 79)

FIRST CLASS MAGISTRATE'S COURT AT LAUTOKA

C H A R G E

(Complaint by Public Officer)

In the
Magistrate's
Court, Lautoka

No. 1

Charge.

8th February,
1961.

20

FIRST COUNT

Making a false entry in a document contrary
to Section 116 of the Customs Ordinance Cap. 166.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of
Dukhran) of Lautoka did at Lautoka on or about the
15th day of July 1960 make a false entry in respect
of a document required by the Comptroller of Customs
covering a shipment of laundry blue wherein the
value of such laundry blue for duty purposes was
falsely shown as being £124. 6. 5.

In the
Magistrate's
Court, Lautoka

STATEMENT OF OFFENCE

SECOND COUNT

No. 1

Making a false entry in a document contrary to Section 116 of the Customs Ordinance Cap.166.

Charge.

8th February,
1961

- continued.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of Dukhran) of Lautoka did at Lautoka on or about the 18th day of July 1960 make a false entry in respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value for duty purposes was falsely shown as being £31.1.7

10

STATEMENT OF OFFENCE

THIRD COUNT

Making a false entry in a document contrary to Section 116 of the Customs Ordinance Cap.166.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of Dukhran) of Lautoka did at Lautoka on or about the 12th day of August 1960 make a false entry in respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value of such laundry blue for duty purposes was falsely shown as being £124.6.5.

20

Taken before me at Lautoka.

(Sgd.) J.H. Gardner.
Collector of Customs.

J.A.C. HILL
Magistrate

Date 8/2/61.

30

No. 2

S U M M O N S

CRIMINAL PROCEDURE CODE

Form 5 (Section 82)

S U M M O N S

FIJI) IN THE MAGISTRATE'S COURT AT LAUTOKA
TO WIT) WESTERN DISTRICT.

To JANME JAI PRASAD and JAIMUNI PRASAD (both sons
of Dukhran) of Lautoka

10 You are hereby commanded to appear at nine
o'clock in the forenoon of the 13th day of February
1961 at the Magistrate's Court at the Court House
Lautoka there to answer the following charges made
on the complaint of the Comptroller of Customs of
the Colony of Fiji.

STATEMENT OF OFFENCE

FIRST COUNT

Making a false entry in a document contrary to
Section 116 of the Customs Ordinance Cap.166.

20 PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of
Dukhran) of Lautoka did at Lautoka on or about the
15th day of July 1960 make a false entry in respect
of a document required by the Comptroller of Customs
covering a shipment of laundry blue wherein the
value of such laundry blue for duty purposes was
falsely shown as being £124. 6. 5.

STATEMENT OF OFFENCE

SECOND COUNT

30 Making a false entry in a document contrary to
Section 116 of the Customs Ordinance Cap. 166.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of
Dukhran) of Lautoka did at Lautoka on or about the
18th day of July 1960 make a false entry in respect

In the
Magistrate's
Court, Lautoka

No. 2

Summons.

8th February,
1961.

In the
Magistrate's
Court, Lautoka

of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value for duty purposes was falsely shown as being £31.1.7.

No. 2

STATEMENT OF OFFENCE

Summons.

THIRD COUNT

8th February,
1961
- continued.

Making a false entry in a document contrary to Section 116 of the Customs Ordinance Cap. 166.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of Dukhran) of Lautoka did at Lautoka on or about the 12th day of August 1960 make a false entry in respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value of such laundry blue for duty purposes was falsely shown as being £124. 6. 5. and be dealt with according to law. 10

DATED this 8th day of February 1961.

(Sgd.) J.A.C. HILL
Magistrate.

20

No. 3

No. 3

Proceedings.

P R O C E E D I N G S

13th February,
1961.

IN THE FIRST CLASS MAGISTRATE'S COURT, LAUTOKA

BEFORE M.J.C. SAUNDERS Esq., Senior Magistrate

13.2.61.

KERMODE for Prosecution

S.B. PATEL & KOYA for accused.

Charge read interpreted and explained.

Plea: Not Guilty Not Guilty
 Not Guilty Not Guilty
 Not Guilty Not Guilty

30

15.3.61

(Sgd.) M.J.C. Saunders
Senior Magistrate.

PROSECUTION EVIDENCE

No. 4

In the
Magistrate's
Court, Lautoka

EVIDENCE OF JACK DESMOND ELEY

28.3.61

Prosecution
Evidence

KERMODE for Comptroller of Customs.

No. 4

S.B. PATEL and KOYA for Defendants.

Jack Desmond
Eley.

1st P.W. - Sworn JACK DESMOND ELEY, Collector of
Customs, Lautoka.

Examination.

This is an authority for Jaimuni Prasad to sign for J. Prasad Bros. the Customs documents. Tendered accepted and marked Exhibit "A". This import entry dated 15.7.60 has a signature on it. Janme Jai Prasad's - Id. 1. Another dated 18.7.60. Another dated 12.8.60. In each case it is his signature of Janme Jai Prasad. Also produce certified true copy of application for registration of J. Prasad Bros. Tendered accepted and marked Exhibit "B". The form of entry is required under the Customs Ordinance for entry of goods. These entries were lodged by J. Prasad Bros. checked and stamped by our department and produced from our custody.

Cross-examined.

Cross-
examination.

KOYA Any declaration as to value by Collector of Customs on this blue? Not in respect of this blue.
Value fixed under S.4 Customs Duties Notice?
No.

Re-examined

Re-examination

Value based on documents submitted by Defendant Company?

Yes. Accepted as such.

In the
Magistrate's
Court, Lautoka

No. 5

EVIDENCE OF JOHN HENRY RONALD GARDINER

Prosecution
Evidence

2nd P.W. - Sworn JOHN HENRY RONALD GARDINER, Senior
Collector of Customs.

No. 5

I went to premises of J. Prasad Bros. and took away certain files. Considered investigations had to be made into shipment of laundry blue.

John Henry
Ronald
Gardiner.

Examination.

See Import Entry (C5) and (C4) invoice for 15.7.60. Value 111/- C.I.F. Lautoka. I went to Samji Jadavji's firm and these documents were produced. (C.I.)(1) Order Sheet of J. Prasad Bros. to William Edge & Son for goods to be consigned to Samji Jadavji dated 20.5.60. Number "S.J. & Coy. 6984 Nadi".

10

(C.2.)(2) Delivery docket from Burns Philp to Jai Prasad Bros. for delivery of Blue.

(C.3.)(3) Invoice from J. Prasad Bros. to Samji Jadavji for 10 cases of blue at price 122/6 F.O.B. London. This shows duty paid at 20% on 122/6 plus freight and insurance but they only paid duty on 111/- C.I.F. The figures are correct. J. Prasad Bros. did not in fact pay that amount. They only paid on 111/- C.I.F. Lautoka.

20

Invoice also shows charge of 2/6 for a Customs entry. This differs from Customs Agents Fees. This seems to be both Customs Agent and Indent Agent.

Tenders all documents - Marked Exhibit C1 - 5. This is an entry (D.2) and invoice (D.3) for 18.7.60. I also have (D.1)(1) Invoice from J. Prasad Bros. to C.M. Patel Bros. for 5 cases of blue at 122/6 per cwt., to which is added freight, insurance and showing duty and Port and Customs Services tax paid on 122/6. They actually paid £6.3.9 but invoice shows £8.0.7 duty. Paid £1.3.4. Port and Customs Services tax but invoice shows £1.10.2 paid. Paid 10d wharfage correctly shown. (D.4)(2) Certified invoice from Richardson and Company of London obtained from C.M. Patel. This, and invoice of 18.7.60 are similar in many respects date, address of consignor, goods, ship, order numbers, Country of origin, marks and number of packages, certification.

30

40

Dissimilar in price, total charges. Tendered all documents - accepted and marked Exhibit D1 - 4.

I have invoices (E.1) for 12.8.60 & (E.2) Entry forms.

In the
Magistrate's
Court, Lautoka

Also obtained from G. Dayaram and Sons.
 (E.3)(1) Order Sheet from J. Prasad Bros. to Richardson and Company to be consigned to Dayaram and Sons. Value 122/6 per cwt. F.O.B. U.K. Port.
 (E.4)(2) Invoice from J. Prasad to Dayaram and Bros. Nadi - valued at 122/6 F.O.B. U.K. Duties paid are Customs £8.0.10 whereas £6.4.4. was paid. Port and Customs Service Tax £1.10.2 shown £1.2.4 paid. Similarities under numbers.
 (E.5)(3) Delivery docket from Burns Philp.
 (E.6)(4) Certified invoice from Richardson and sons to C.M. Patel produced by Dayaram and Company. Nothing similar. Price 122/6 plus freight and insurance. Prior to import entries were accepted by Customs and Duty Charged in respect of these entries. Forms required under Section 27 of the ordinance. Tenders documents - all marked E.1 - 6.

Prosecution
Evidence

No. 5

John Henry
Ronald
Gardiner.

Examination.
- continued.

20 Cross-examined

Cross-
examination.

KOYA. Rate of duty is percentage?
Yes.

Value fixed?
Never fixed until importation, and then fixed on documents. Any fixation from Comptroller through you for these articles?

No.

Or from Comptroller himself?
No.

30 Nothing to show when C.M. Patel ordered in Exhibit D?

No.

Different orders for Exhibit D2 & D4?
Yes.

D.2? C.M. Patel on D.4 and J. Prasad Bros. on
Yes.

Re-examined

No.

In the
Magistrate's
Court, Lautoka

No. 6

EVIDENCE OF SAMJI JADAVJI

Prosecution
Evidence

3rd P.W. - Sworn SAMJI JADAVJI s/o Jadavji of Nadi
Merchant.

No. 6

Samji Jadavji.
Examination.

Had business with J. Prasad Bros. We gave Orders to J. Prasad Bros. as agent. They said price was S/122/6 F.O.B. I expected to pay freight and insurance. Order to be placed in my firm's name. Ordered 10 cases of "Blue". Our lorry went to customs and took delivery. The documents were Ex. C. 1, 2 & 3. I gave them to Mr. Gardiner. The shipment we got did not have our marks on it. Ex. C.2 shows this "blue" we actually got and the marks on it. I paid the amount shown in Ex. C.3. Had blue shipments earlier. Used to get it in our names at the same prices.

10

Cross-
examination.

Cross-examined.

Previously you cleared goods yourself in Customs?

Yes.

20

You paid draft at Bank before?

Yes.

In this case this did not happen?

No.

On freight sale by J. Prasad Bros. to you? Not quite. They said goods had arrived in their name and if we paid we could get the goods.

You have no complaints?

No.

Know the name of ship who brought goods?

My son would.

30

Re-examination.

Re-examined.

Give Prasad Bros. authority to collect on your behalf?

No.

Ever get invoices covering goods?

Not in respect of this shipment.

No invoices, how clear them?

J. Prasad Bros. got them.

Instructions to agents were given
with your name and marks?
Yes.

In the
Magistrate's
Court, Lautoka

Have seen an invoice for this?
No. Only earlier goods.

Prosecution
Evidence

Ever cancel earlier orders?
No.

No. 6

Why does invoice show Customs Duty etc. if a
sale?

Samji Jadavji.

10 We wanted to know exactly what it cost before
we gave cheque.

Re-examination
- continued.

Landed cost and all duty?
Yes.

That is what you were going to pay?
Yes.

COURT. Why go to Prasad Bros?
He had been agent for two years.

Richardson will not send direct?

20 They will send invoice direct but goods
through Defendant Company.

This was first time you did not get invoices?
Yes.

No. 7

No. 7

EVIDENCE OF CHOTUBHAI PATEL

Chotubhai Patel.
Examination.

4th P.W. - Sworn CHOTUBHAI PATEL s/o Chaganbhai
Patel, Lautoka, Merchant.

30 C.M. Patel - I know Prasad Bros. July last
year I ordered 5 cases of "blue". I asked them to
place an order for 5 boxes of blue and they gave us
an order sheet and said goods would be consigned in
due course. To come to us direct through them.
They were to place the draft. When I placed the
order the goods were to come direct to me, but some
times it went through them. In this case I thought
they would be consigned in our name as in the past.
But they did not.

In the
Magistrate's
Court, Lautoka

Prosecution
Evidence

No. 7

Exhibit D.1 is an invoice from J. Prasad Bros. to us. I gave it to Mr. Gardiner. J. Prasad gave me price of 122/6 per cwt. F.O.B. Customs and other charges were to be added on. I also got another invoice from J. Prasad Bros. This is it - Ex. "D.4" I got D.4 first and D.1 later on. The ink writing was on D.4. Handed D.4 to Mr. Gardiner. Never seen D.3 before. The goods have our marks on them in D.3.

Chotubhai Patel. Cross-examined.

10

Examination
- continued.

Import a lot?
Yes.

Cross-
examination

Got invoices from Exporter?
Yes.

None in this case?
No.

Did not clear goods?
No.

No complaint?
No.

20

Sale from J. Prasad Bros. to you?
Yes.

Not misled about price or charges etc.?
No.

Re-examination. Re-examined.

Not misled - see invoice showing goods brought in at 111/- C.I.F.?

I had given an order at 122/6 so could not object.

Ordering from Richardson or J. Prasad?
I ordered from J. Prasad Bros. and he would please himself.

30

Why would Prasad put all that duty on your invoices?

No. 8

EVIDENCE OF DAYARAM5th P.W. - Sworn DAYARAM s/o Nanji.

In May last year I placed an order for 5 case of Little Boy "Blue" through J. Prasad Bros. This is a copy of the order sheet E.3 covering that shipment. Price shown as arranged at 122/6 F.O.B. Eventually I received 5 cases Little Boy "Blue". Never received an invoice from Richardson. Order says goods to be shipped to me. So we should receive an invoice. We did not in this case. I have a delivery note from B.P's and invoice from Prasad Bros. E.4 & 5. I handed this to Mr. Gardiner. I asked 2nd Defendant why not direct in my name. He said all had arrived in their name and they would distribute the goods themselves. He said he would write down all the Customs charges and tax etc. on his bill and then we could pay and collect. I see Ex. E.6. 2nd Defendant showed me this and said although in C.M. Patel's name the prices and everything would be the same. I kept this copy and gave it to Mr. Gardiner.

Cross-examined.

Shown when you placed order?
No.

When?
When goods arrived.

The Defendants got goods in their name and sold them to you?

Yes.

You did not clear goods or get draft?
No.

You were to get goods directly from J. Prasad and Bros. of Fiji?

We ordered them but change because goods came to them.

You were quite happy?
Yes.

No profit to J. Prasad and Bros.?
He may have made some.

The invoice sets out exactly what he paid out and he asked you to pay it?

He cannot get any profit from us because he is the agent and accepts an order at a certain price and let us have the goods at that price. He gets a commission from the other end.

In the
Magistrate's
Court, Lautoka

Prosecution
Evidence

No. 8

Dayaram.

Examination.

Cross-
examination.

In the
Magistrate's
Court, Lautoka

Prosecution
Evidence

No. 8

Dayaram.

Cross-
examination
- continued.

So you think 122/6 is the cost price?
Yes.

You did not care where the goods came from
London at Lautoka?

The goods were ordered from London.

But you received no draft or invoice.

After goods arrived they have told us the
goods had arrived in their name and they said they
would total up the cost and we would pay,

Fresh arrangements?

You can call it that if you like.

What do you think?

He told me to get the goods. I was in accord-
ance with my order so I accepted.

10

Re-examined

No.

No. 9

Proceedings.

28th March,
1961.

No. 9

P R O C E E D I N G S

Charge read, interpreted and explained to Accused.

Elect - No evidence.
No witness.

20

S.B. Patel - Not calling any evidence or witnesses.

KERMODE Entry on behalf of J. Prasad Bros. -
Defendants are partners - S. 21 P.C. (a - d) -
partnership - all partners party to this offence -
false price - two invoices for same shipment -
ample proof of false prices - Second count - Counts
1 & 3 ample proof that price was 122/6 P.O.B. - see
order forms - price shown as 122/6 - invoice of J.
Prasad purporting to show landed cost - "Agency
Fees" from clearing -

30

KOYA Duty only paid on a value fixed by Comptrol-
ler of Customs - S. 4 Cap.167 - Until value is fixed
no offences - Comptroller made charges so price
fixed - No evidence as to Janme Jai Prasad - no
presumption that both partners liable unless evi-
dence of premeditations - Jaimuni Prasad should be
acquitted on that ground - is it sale by J. Prasad
or by Richardson - Same invoice held by C.M. Patel
is not used for customs purposes -

40

CAV. 17.4.61.

(Sgd.) M.J.C. Saunders
Senior Magistrate.

No. 10

J U D G M E N T

COMPTROLLER OF CUSTOMS

vs.

- 1. JANME JAI PRASAD
 - 2. JAIMUNI PRASAD
- } all sons of Dukhran.
-

In the
Magistrate's
Court, Lautoka

No. 10

Judgment.

17th April,
1961.

17.4.61.

DEAN for Prosecution

KOYA for Defendants.

J U D G M E N T

The prosecution must prove that the entry -
 £124.6.5. in Exhibit "E.2" the entry £31.1.7d in
 Exhibit "D2", and the entry £124.6.5 in Exhibit "C5"
 or any one of them, is false. The prosecution does
 not need to prove what is the correct entry. In each
 case the figure is the value of, or the price for
 laundry blue. In each case the exhibit has been
 signed "J. Prasad Bros., J.J. Prasad". In each case
 the laundry blue was cleared through the Customs by
 J.J Prasad Bros. Both the defendants form the
 partnership business of J.J. Prasad Bros. together
 with another partner not in Fiji. Only the first
 defendant Janme Jai Prasad, actually completed the
 exhibits but he did so on behalf of the partnership
 business, as is clear from the signatures.

The Defendants are charged with a Criminal
 Offence, however, and the mere fact that they are
 partners does not involve the 2nd Defendant in any
 Criminal Liability for the acts of 1st Defendant;
 the prosecution must show that he was aware of the
 essential matters which constitute the offence. In
 other words, it must be shown that 2nd Defendant
 also knew that the entries were false and that they
 were to be in a document required by the Comptroller
 of Customs.

The Court is satisfied that Exhibits "E2", "D2"
 and "C5" are documents required by the Customs
 Department under Section 27 of the Customs Ordinance.

Dealing with the first count, which involves

In the
Magistrate's
Court, Lautoka

No. 10

Judgment.

17th April,
1961

- continued.

all the exhibits marked "C", Janme. Jai Prasad filled up Exhibit C5, an import entry form, showing the value of 20 cwt. of laundry blue which was being imported as £124.6.5 Fijian. Attached was Exhibit "C4", showing a value of \$111/- per cwt. C.I.F. Lautoka. This consignment was marked "JPB 7039 Lautoka 1/20", Order No. 7039, shipped to J. Prasad Bros. from Richardson & Co. (London) Ltd. per S.S. PORT WYNDHAM. The order was dated 28th June 1960 at London. The consignment arrived on 12.7.60 at Lautoka.

10

On 20th May, 1960, Messrs. Samji Jadavji & Co. of Nadi had placed an order with J. Prasad Bros. for 10 cases of Laundry Blue. This is Exhibit "C1". The shipping marks were to be "S.J. & Co. 6984 Nadi" and the order was to William Edge & Sons Ltd. to be consigned direct to Samji Jadavji & Co. The price was shown as 122/6 per cwt. F.O.B. London. Order No.6984. Now, the Court can see no connection between this order and the laundry blue subsequently delivered Samji Jadavji on 20.7.60. The consignor is different, the order number is different, the marks are different.

20

On 20.7.60, as Exhibit "C2" shows, 10 cases of laundry blue, marks J.P.B. Lautoka, 7039 were delivered ex Port Wyndham for Samji Jadavji. This clearly is part of the shipment shown on the import entry form Exhibit "C5".

The next exhibit in the Prosecution case is "C3", an invoice from J. Prasad Bros. to Samji Jadavji & Co. showing the total cost of the laundry blue as 122/6 cwt. plus freight, insurance, exchange, Duty, P.C.S.T., wharfage, Bank charge and Customs Entry. Now the prosecution seek to show that this invoice relates to part of the consignment of laundry blue shown in import entry Exhibit "C5". This appears to the Court to be so. The ship Port Wyndham, arrived on 12.7.60, the invoice was dated 13.7.60, payment was made on 16.7.60, and the goods were collected on 20.7.60, all ex Port Wyndham.

30

40

It cost J. Prasad Bros. £77.0.1d to buy and clear 10 cases of laundry blue, according to their import entry, Exhibit "C5". According to their invoices Exhibit "C3" to Samji Jadavji, it cost them £99.4.3. The difference is due entirely to the cost of the blue, as the other payments are assessed on that cost.

Exhibit "C3" is clearly an invoice meant to show the cost of goods together with charges payable. It is not a Sales docket setting out the price of an article which is being sold. It is clear, at least to this Court, that J. Prasad Bros. were defrauding Samji Jadavji & Co., but that does not concern this case. In this case the Court must be satisfied beyond reasonable doubt that the figure of cost at S111/- C.I.F. per cwt. is false.

In the
Magistrate's
Court, Lautoka

No. 10

Judgment.

17th April,
1961

- continued.

10 There is one point which seems to have been overlooked in this court. Written on Exhibit "C4" the invoice, are the following words: "We hereby certify that we have received from J. Prasad Bros. the sum of Stg. S111 being payment in full of the amount drawn upon them by Richardson & Co. of London - For the Bank of New Zealand signed Manager".

20 With that endorsement, which speaks for itself, I cannot see how this Court can say that it is satisfied, beyond reasonable doubt that the figure of S111/- C.I.F. per cwt. is false. On the 1st count I find each Defendant not guilty and he is acquitted.

The second count concerns a shipment of 5 cases of laundry blue sold to C.M. Patel & Sons. The documents marked "D" affect this count.

30 Here, again Janne Jai Prasad filed an import entry, Exhibit "D2", with an invoice attached, Exhibit "D3", showing the cost of the blue to be S111/- C.I.F. Lautoka. Once again J. Prasad Bros. defrauded another shopkeeper by passing the goods on to him and invoicing the cost as 122/6 per cwt. F.O.B. London and adding additional charges worked out, on that figure. Again the question for the Court is not whether this Lautoka firm has defrauded another firm but whether it has defrauded the Customs.

40 In this count, it is again clear that the "blue" shown in the import entry Exhibit "D2" is the same blue as that delivered to C.M. Patel & Sons on the Invoice Exhibit "D1". The price on this invoice is shown as 122/6 per cwt. On this count, however, another customs invoice makes its appearance. Exhibit "D4". This invoice is the same as that used by J. Prasad Bros. to clear the goods through the Customs except for (a) the consignee is C.M. Patel & Sons instead of J. Prasad Bros.

In the
Magistrate's
Court, Lautoka

No. 10

Judgment.

17th April,
1961

- continued.

(b) The selling price is shown as 122/6 cwt. F.O.B. London, instead of S111/- cwt. C.I.F. Lautoka.

(c) The declaration has a different witness.

(d) Clause 5 of the declaration.

There is an additional description on the front of Exhibit "D4".

The order number is the same, the marks are the same and the date and signature to the declaration are the same. The Court has no doubt that both invoices refer to the same goods. It is interesting to note, that whereas on Invoice Exhibit "D4" showing a price of 122/6 cwt. F.O.B. London the supplier has declared that there is no different invoice or arrangement between purchaser and supplier, on form Exhibit "D3" with the price at S111/- cwt. C.I.F. Lautoka there is no such declaration.

10

Now how did Exhibit "D4" come into the picture. It was not produced to the Customs, for obvious reasons if a certain view is taken. It was however, handed to Chotabhai Patel of C.M. Patel & Sons by J. Prasad Bros. before he ordered his "blue". In other words, J. Prasad Brothers showed C.M. Patel Bros. Exhibit "D4" to prove what the cost to C.M. Patel Bros. would be, and in fact, the figures on Exhibit "D4" are exactly the same as those on J. Prasad & Sons invoice Exhibit "D1" to C.M. Patel for the goods shown in Invoice Exhibit "D4"?

20

The Court realises that two explanations for these discrepancies are available. The firm of J. Prasad Bros. could be purchasing this blue for S111/- cwt. C.I.F. Lautoka, and deliberately showing C.M. Patel & Co. invoices etc. purporting to show that they have paid 122/6 F.O.B. in order to obtain from C.M. Patel & Co. money which J. Prasad Bros. have not spent. They could be doing this alone. They could on the other hand be paying S122/6 cwt. F.O.B. London for their blue, defrauding the Customs by paying duty on a value of S111/- cwt. C.I.F. Lautoka shown on the invoice, and defrauding C.M. Patel & Co. by claiming to have paid duty on a value of 122/6 F.O.B. whereas in fact they have only paid duty on 111/- S. C.I.F. and obtaining the difference from C.M. Patel & Co.

30

40

This Court is only concerned with the possibility of defrauding the Customs. Are the facts as set

out sufficient to satisfy the court beyond reasonable doubt that the Defendants are defrauding the Customs? If one considers all the facts relating to this count, and the fact that neither defendant has seen fit to give any explanation of this dubious transaction, this Court is satisfied beyond reasonable doubt that the entry of value of blue in the Import Entry Form signed by the 1st Defendant is false. That is the figure £31.1.7 in Exhibit "D2".

10

I am satisfied 1st Defendant knew it was false when he made it. I find him guilty of offence charged on 2nd count and convict accordingly.

The Court can find no evidence to connect 2nd defendant with the false entry. He apparently told C.M. Patel and Co. that the price was 122/6 F.O.B. London and there is no evidence to show that he knew otherwise. I find him not guilty and acquit him.

20

We now come to the third count, concerning a shipment to Dayaram & Sons, of "blue". The exhibits are marked "E". Here again in Exhibit "E3" there is an order from Dayaram & Sons to J. Prasad Bros. for laundry blue, 5 cases, at 122/6 cwt. F.O.B. U.K. Port. It arrives in M.V. "Nottingham" and 1st defendant files with the Customs an Invoice (Exhibit "E1) and an import entry form (Exhibit "E2) which he himself signs.

30

The import entry form and the invoices show the selling price to be 111/- C.I.F. Lautoka. The marks are M.D. & Sons 6964. 6964 is the number of Dayaram's order on J. Prasad Bros. J. Prasad Bros. pay duty on 111/- C.I.F. Lautoka and inform Dayaram & Sons that the blue cost 122/6 F.O.B. London. Dayaram & Sons pay this amount and the moneys assessed on this amount and J. Prasad Bros. put the difference in their pocket. Here again, neither defendant has seen fit to give evidence explaining this dubious transaction. Further more, on this count, 2nd defendant clearly had full knowledge of what was going on. Dayaram made this order through him, and 2nd Defendant explained to Dayaram how the transaction would be carried out. 2nd Defendant showed Dayaram Exhibit "E6", where the price of blue is shown as 122/6 F.O.B. London and told Dayaram & Son the price would be the same. Not only that, 2nd defendant showed it to Dayaram when

40

In the
Magistrate's
Court, Lautoka

No. 10

Judgment.

17th April,
1961

- continued.

In the
Magistrate's
Court, Lautoka

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17th April,
1961
- continued.

the goods arrived, it was revealed in cross-examination. I have no doubt whatsoever that on this count 2nd defendant acted in concert with 1st defendant from the start, and knew all along what was happening. Again, on this count, I am satisfied beyond reasonable doubt that the value shown on the Import entry Exhibit "E2" as £124.6.5 is false, the value of 5 cases of "Blue" marked "6964 Nadi" being false, and that both the defendants knew it. I find each defendant guilty on third count as charged and convict accordingly.

10

Not known.

DEAN: Serious offence.

KOYA: Nothing to say - first offence.

SENTENCE: Defrauding the Customs is a sort of game of chance. The odds on winning are great. Accordingly the payment on losing must be great. In this case, clearly it was a carefully thought out and premeditated fraud. No question of suddenly trying to get something past the Customs.

20

On 2nd Count I fine 1st Defendant £200 or 6 months.

On 3rd Count I fine each defendant £200 or 6 months.

M.J.C. Saunders,
Senior Magistrate.

KOYA: Verbal notice of appeal - asks for suspension of fine.

COURT: Suspended for 1 month.

M.J.C. Saunders
Senior Magistrate.

30

No. 11

PETITION OF APPEAL

CRIMINAL PROCEDURE CODE

IN THE MATTER of an APPEAL from the
Magistrate's Court at Lautoka in
CRIMINAL CASE NO. 123/61

In the
Supreme Court

No. 11

Petition of
Appeal.

1st May, 1961.

PETITION OF APPEAL

To Her Majesty's Supreme Court of Fiji.

10 THE PETITION of JANME JAI PRASAD and JAIMUNI
PRASAD (both sons of Dukhran of Lautoka sheweth:-

1. THAT on the 13th day of February, 1961, your
Petitioners were charged before the Magistrate's
Court at Lautoka of the following offences:

FIRST COUNT

STATEMENT OF OFFENCE

Making a false entry in a document contrary to
Section 116 of the Customs Ordinance Cap. 166.

PARTICULARS OF OFFENCE

20 JANME JAI PRASAD and JAIMUNI PRASAD (both sons of
Dukhran) of Lautoka did at Lautoka on or about the
15th day of July, 1960, make a false entry in
respect of a document required by the Comptroller
of Customs covering a shipment of laundry blue
wherein the value of such laundry blue for duty
purposes was falsely shown as being £124. 6. 5.

SECOND COUNT

STATEMENT OF OFFENCE

Making a false entry in a document contrary to
Section 116 of the Customs Ordinance Cap. 166.

30

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of
Dukhran) of Lautoka did at Lautoka on or about the
13th day of July, 1960, make a false entry in

In the
Supreme Court

No. 11

Petition of
Appeal.

1st May, 1961
- continued.

respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value for duty purposes was falsely shown as being ₹31. 1. 7.

THIRD COUNT

STATEMENT OF OFFENCE

Making a false entry in a document contrary to Section 116 of the Customs Ordinance Cap. 166.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of Dukhran) of Lautoka did at Lautoka on or about the 12th day of August, 1960 make a false entry in respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value of such laundry blue for duty purposes was falsely shown as being ₹124. 6. 5 and be dealt with according to law. 10

2. THAT on the 17th day of April, 1961, your Petitioners were acquitted on the first count, your Petitioner Janme Jai Prasad was convicted on the second and the third counts and your Petitioner Jai Muni Prasad was convicted on the third count by the said Court. 20

3. THAT upon their conviction for the said offences your Petitioner Janme Jai Prasad was fined ₹200.0.0 on second and third counts and your Petitioner Jai Muni Prasad was fined ₹200.0.0 on the third count.

4. THAT your Petitioners desire to appeal against the said conviction upon the following grounds: 30

(a) That the trial was irregular and conducted in a manner prejudicial to your Petitioners case and the learned trial Magistrate made premature finding of facts. Consequently there has been a substantial miscarriage of justice. In support of this ground your Petitioners will allege at the hearing of this appeal:-

(i) that at the end of cross-examination of the Prosecution witness Ohotubhai Patel the learned trial Magistrate pointing to your Petitioners said to 40

the witness "You have been diddled by those two people; and whilst addressing the said witness and referring to your Petitioners the trial Magistrate said "I have no time for these two people" and whilst addressing your Petitioners (who were in the dock at that time) the learned Magistrate said "you two are crooks". It is a pity that this case doesn't carry penalty of imprisonment".

In the
Supreme Court

No. 11

Petition of
Appeal.

1st May, 1961
- continued.

10

(ii) that at the end of cross-examination of the Prosecution witness Dayaram the learned Magistrate said to the said witness words to the effect "Don't you think these two people have cheated you".

20

(b) That the learned trial Magistrate erred in law and in fact in holding that the Import Entry on the document referred to in the 2nd Count was false.

(c) That the learned trial Magistrate erred in law and in fact in holding that the Import Entry on the document referred to in the 3rd Count was false.

(d) That the learned trial Magistrate erred in law and in fact in holding that your Petitioner Jaimoni Prasad was a party to the offence charged under the 3rd Count.

30

PRESENTED this 1st day of May 1961.

KOYA & CO.

per: S.M. Koya.

Solicitors for the Appellants.

In the
Supreme Court

No. 12

NOTICE OF MOTION FOR LEAVE TO FILE AFFIDAVIT

No. 12

IN THE SUPREME COURT OF FIJI

Notice of
Motion for leave
to file
Affidavit.

APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 16/1961.

7th June, 1961.

B E T W E E N

JANME JAI PRASAD and
JAIMUNI PRASAD both sons
of Dukhran of Lautoka Appellants

- and -

COMPTROLLER OF CUSTOMS Respondent

10

TAKE NOTICE that this Honourable Court will be moved on Friday the 9th day of June, 1961, at 9.30 o'clock in the forenoon or so soon thereafter as Counsel can be heard, by Counsel for the above-named Appellants for an order that the Appellants do have leave to file an Affidavit of MR. SIDDIQ MOIDIN KOYA in support of the grounds of Appeal filed herein. A copy of the Affidavit is annexed hereto.

DATED the 7th day of June, 1961.

20

KOYA & CO.

per: S.M. Koya.
Solicitors for the Appellants.

To the Registrar,
Supreme Court,
SUVA.

and The Attorney-General,
SUVA.

No. 13

AFFIDAVIT of MR. S.M. KOYA

In the
Supreme Court

IN THE SUPREME COURT OF FIJI

No. 13

APPELLATE JURISDICTION

Affidavit of
Mr. S.M. Koya.

CRIMINAL APPEAL NO. 16/1961.

7th June, 1961.

B E T W E E N JANME JAI PRASAD and
 JAINUNI PRASAD both sons
 of Dukhran of Lautoka Appellants

- and -

10 COMPTROLLER OF CUSTOMS Respondent

I, SIDDIQ MOIDIN KOYA of Lautoka in the Colony of Fiji, Barrister and Solicitor make oath and say as follows:-

1. THAT the case against the Appellants in this matter was heard before Mr. M.J.C. Saunders, Esquire, Senior Magistrate at the Magistrate's Court at Lautoka on the 28th day of March, 1961. Mr. S.B. Patel and I appeared as Counsel for the Appellants and Mr. R.G. Kermodé appeared as Counsel for the Respondent.
2. THAT the 4th Prosecution witness was Chotubhai Patel son of Chaganbhai Patel. I cross-examined this witness. At the end of the cross-examination the trial Magistrate pointed to the Appellants and said to the witness Chotubhai Patel "You have been diddled by these two people". In reply the witness said "I have got my goods as ordered". Again whilst addressing the said witness and referring to the Appellants the trial Magistrate said "I have no time for these two people". The trial Magistrate then addressed the Appellants and said "You two are crooks. It is a pity that this case doesn't carry a penalty of imprisonment".
3. THAT I took brief notes at the trial and briefly noted down the remarks made by the trial Magistrate mentioned in the preceding paragraph.
4. THAT the 5th Prosecution witness at the trial was one Dayaram son of Nanji. I cross-examined this witness. At the end of the cross-examination I distinctly remember the trial Magistrate

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30

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In the
Supreme Court

No. 13

Affidavit of
Mr. S.M. Koya.
7th June, 1961
- continued.

saying to the witness words to the effect
"Don't you think these two people have cheated
you". To the best of my recollection the said
witness gave an answer in the negative.

5. THAT the remarks referred to in paragraphs (2)
and (4) of this Affidavit were made by the
trial Magistrate at a time when the Appellants
were in the prisoner's dock.

SWORN at Suva this 7th day)
of June, 1961 before me:) (Sgd.) S.M. KOYA.

10

(Sgd.) A. Latif

A Commissioner of the Supreme
Court of Fiji for taking
Affidavits.

S.D.
4/-

No. 14

Judge's Notes.

9th June, 1961.

No. 14

JUDGE'S NOTES

IN THE SUPREME COURT OF FIJI

APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 16 of 1961

20

IN COURT

BEFORE THE HON. MR. JUSTICE KNOX-LAWLER

ON FRIDAY 9th JUNE, 1961 at 9.30 a.m.

B E T W E E N : 1. JANMEY JAI PRASAD
2. JAIMUNI PRASAD Appellants

- and -

COMPTROLLER OF CUSTOMS Respondent

MR. JOHNSON for the Appellants
MR. GAJADHAR for the Respondent.

JOHNSON: moves for leave to file further affidavit.

30

GAJADHAR: no objection.

COURT: There is no objection by the Crown to the filing of this affidavit. Leave is therefore granted as prayed. Learned Crown Counsel has suggested that a copy of the affidavit be forwarded by the Registrar to the learned Senior Magistrate for his comments.

In the
Supreme Court

—
No. 14

Judge's Notes.

9th June, 1961
- continued.

10 Learned counsel for the appellant has agreed to this course. It is further agreed between counsel, with the approval of this court, that the Senior Magistrate's comments will be accepted as final and conclusive evidence of what was said at the trial. This appeal will be adjourned to 7.7.61 at 9.30 a.m. to enable the Registrar to forward the affidavit as indicated.

(Sgd.) R. Knox-Mawer Atg.J.
9.6.61.

On Thursday 6th July, 1961 at 9.30 a.m.

6th July, 1961

Mr. Koya for the Appellants.
Mr. Gajadhar for the Respondent.

20 KOYA: Senior Magistrate accepts that these comments in the affidavit were made. Leave to file affidavit.

GAJADHAR: No objection.

COURT: Leave granted.

KOYA: S. 116 C. Crd.

Prosecution Witness C. Patel being cross-examined p.

30 Was he prematurely accepting C. Patel's evidence therefore -- before XX and XX of other witnesses. Patel's evidence very important on 2nd count.

Jones v. N.C.B. 1957 2 All E.R. 155
Claver 37 C.A.R. 37.
1962 W.L.R. p.306 44 C.A.R. 63.

If trial is irregular, what is the consequence? A retrial or otherwise.

S. 325 C.P.C. of S. 335 C.P.C. Rigby v. Woodward 1957 1 All E.R. 391 p. 393.

In the
Supreme Court

No. 14

Judge's Notes.
6th July, 1961
- continued.

Venire de novo - Arch. 34 para 973.
Only with a jury. Venire facias de novo
- to summon a new jury. 1949 2 All E.R. 438. Arch.
Supra para 974.

Trial not a nullity here. S. 341 -
where there is a case stated - specific power to
do so.

Ground B. Document D2
Supported by D3
D4
p.

10

Defence case was that there was direct
sale from J. Prasad to these people. If not so,
the importer would have received D4 himself. We
bought from J. Prasad - if they added extra charges
- a matter between these two - a separate trans-
action altogether.

D 1 £49.19.6. If D3 - D4 same then
under S. 137 C. Ord. Cap.166.

S.140 - doesn't apply - an outright sale,
therefore D3 is 'genuine invoice'.

20

And unless another docket from Richardson
Bros. showing greater price than S.137 cannot come
into play.

E 1 invoice.

Ground C E 2 Entry
Order was E
E 6 dated 23rd February.

Exporter Richardson - Different importer. Ship
different. Order place in May E3. Paid for in
August, 1960. A direct sale to Dayaram. Never
received an invoice from Richardson. E1 is
"Genuine Invoice".

30

E6 only raises suspicion - no proof.

Ground D. Jaimuni Prasad. Shows E6. Dayaram. How
does that connect him with making false entry and
presenting it.

When was that. Party to offence - S. 21
P. Code or in what category does he fall? No evi-
dence whatsoever of this.

40

Adjourned to 2.15 p.m.

(Sgd.) R. Knox-Mawer Atg. J.

2.15 p.m.
Koya.
Gajadhar.

In the
Supreme Court

No. 14

KOYA: State a case for Court of Appeal ?

GAJADHAR: Comments by Learned Magistrate.

Judge's Notes.

6th July, 1961
- continued.

10

No premature finding of facts. If remarks might have been taken prima facie to suggest Magistrate was prematurely prejudiced against accused - judgment removes any such suggestion.

1911 2 K.B. 120 - I have no time
You two are crooks."

Jenkins 87 J.P. - p.129.

Accused may have thought as Court was already so against them, useless to give evidence?
Explanation

Court not have altered the decision -
decision would be the same any way.

20

Counsel in Court below could have asked Magistrate to discontinue hearing case - could have asked for these remarks to be recorded - leave to withdraw.

Magistrate had in mind a prosecution for fraud - not to this case. Had no bearing on this trial.

No authority to make such remarks - could put questions to witness.

Grounds (b) (c) Magistrate correctly acquitted accused on 2nd count. Exhibits D1, D2, D3, D4. p.

30

Defendants produce D3 and D2. 111/- per cwt. C.I.F. Lautoka. D4 122/6 per cwt. £35.16.11 C.I.F. Lautoka.

Bought G.M. Patel & Sons not J. Prasad - same goods. D1 £49.19.6. 2 Invoices D3 and D4. Case for Customs - 2 invoices - purpose being that tyres in D2 were false - £31.1.7.

S.137 - 2 invoices - purpose to defraud.
S.152. S.27 - Dockets actually produced D2 and D3.

In the
Supreme Court

No. 14

Judge's Notes.

6th July, 1961
- continued.

Defence: J. Prasad charged agency fees. p.11
Dayaram's evidence.

Ground 3. E. forms

Ground D 2nd defendant.

Dayaram's evidence. Order was taken by
Defendant 2. He quoted 122/6 per cwt. F.O.B.

Defendant 2 showed E6 to Dayaram. How
would he have done that if he had not known false
declaration was being put in.

Koya in reply, Ground A.

S. 152 doesn't apply.

10

2 Explanations - must be only inference drawable ?
- one explanation ruled on because defendants
chose not to give evidence on this.

Appellants had no chance. Fair trial.
Fair trial must appear. Not a curable irregularity.
If it doesn't appear that appellants had a fair
hearing - such an irregularity is incurable.

Putting character in issue.

Grounds (b) and (c) - difference between.

20

2 invoices. S.137 would apply if they
refer to same goods. I admit that.

Ground (d) Is it inevitable inference ?

Because he showed them to 3rd party that
he knew what his brother was doing at C. House.

Judgment on notice.

(Sgd.) R. Knox-Mawer Atg.J.

6.7.61.

No. 15

J U D G M E N T

IN THE SUPREME COURT OF FIJI

APPELLATE JURISDICTION

CRIMINAL APPEAL No. 16 of 1961

B E T W E E N : 1. JANME JAI PRASAD
2. JAIMUNI PRASAD Appellants

- and -

COMPTROLLER OF CUSTOMS Respondent

In the
Supreme Court

No. 15

Judgment.

28th July, 1961.

10

J U D G M E N T

The appellants were charged before the learned Senior Magistrate, Lautoka, with the following offences:-

FIRST COUNT

STATEMENT OF OFFENCE

Making a false entry in a document contrary to Section 116 of the Customs Ordinance, Cap. 166.

PARTICULARS OF OFFENCE

20 JANME JAI PRASAD and JAIMUNI PRASAD (both sons of Dukhran) of Lautoka did at Lautoka on or about the 15th day of July, 1960, make a false entry in respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value of such laundry blue for duty purposes was falsely shown as being £124. 6. 5.

SECOND COUNT

STATEMENT OF OFFENCE

Making a false entry in a document contrary to Section 116 of the Customs Ordinance, Cap. 166.

30

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of Dukhran) of Lautoka did at Lautoka on or about the 18th day of July, 1960, make a false entry in respect of a document required by the Comptroller of Customs covering a shipment of laundry blue wherein the value for duty purposes was falsely shown as being £31. 1. 7d.

In the
Supreme Court

THIRD COUNT

STATEMENT OF OFFENCE

No. 15
Judgment.

Making a false entry in a document contrary to
Section 116 of the Customs Ordinance, Cap. 166.

28th July, 1961
- continued.

PARTICULARS OF OFFENCE

JANME JAI PRASAD and JAIMUNI PRASAD (both sons of
Dukhran) of Lautoka did at Lautoka on or about the
12th day of August, 1960, make a false entry in
respect of a document required by the Comptroller
of Customs covering a shipment of laundry blue
wherein the value of such laundry blue for duty
purposes was falsely shown as being £124. 6. 5d

10

Both appellants were acquitted on the first
count. The first appellant was convicted upon the
second count and fined £200. Both appellants were
convicted upon the third count and each was fined
£200.

The grounds of appeal are as follows :-

(a) That the trial was irregular and conducted in
a manner prejudicial to your Petitioners case
and the learned trial Magistrate made premature
finding of facts. Consequently there has been
a substantial miscarriage of justice. In sup-
port of this ground your Petitioners will
allege at the hearing of this appeal:-

20

(i) That at the end of cross-examination of
the Prosecution witness Chotubhai Patel
the learned trial Magistrate pointing to
your Petitioners said to the witness "You
have been diddled by those two people";
and whilst addressing the said witness
and referring to your Petitioners the
trial Magistrate said "I have no time for
these two people" and whilst addressing
your Petitioners (who were in the dock at
that time) the learned Magistrate said
"You two are crooks"; "It is a pity that
this case doesn't carry penalty of im-
prisonment".

30

(ii) That at the end of cross-examination of
the Prosecution witness Dayaram the
learned Magistrate said to the said wit-
ness words to the effect "Don't you think
these two people have cheated you".

40

- (b) That the learned trial Magistrate erred in law and in fact in holding that the Import Entry on the document referred to in the 2nd Count was false.
- (c) That the learned trial Magistrate erred in law and in fact in holding that the import Entry on the document referred to in the 3rd Count was false.
- 10 (d) That the learned trial Magistrate erred in law and in fact in holding that your Petitioner Jaimuni Prasad was a party to the offence charged under the 3rd Count.

I shall deal with the first ground of appeal at the conclusion of this judgment.

20 With reference to grounds (b) and (c), the prosecution evidence clearly established that in respect of the two consignments of laundry blue there were two invoices prepared in respect of each consignment. The selling price entered upon the one invoice differed from the selling price entered upon the other invoice, in each case. The facts set up thus showed not only a prima facie fraud, but also that, prima facie, the declaration on the respective Import Entry form was in each instance false. Neither appellant chose to give any sort of explanation whatsoever. The learned Senior Magistrate was therefore entirely justified in drawing an inescapable inference that a false entry had been made, in both instances, as charged in Counts 2 and 3. I find no substance in these two grounds of appeal.

30

40 As regards ground (d), the only possible inference to be drawn from the evidence is that the second appellant not only knew of the existence of the two invoices giving different values, when the goods had actually arrived at the Customs, but must have been a party to the whole fraudulent transaction. The court below was fully entitled to conclude that in respect of count 3, both appellants had formed a common intention to make and submit a false entry and both shared in the prosecution of this common intent. The fact that it was the first appellant who actually wrote and presented the false entry does not render the second appellant any the less guilty of the offence committed in prosecution of their common purpose. This ground of appeal also fails.

In the
Supreme Court

No. 15

Judgment.
28th July, 1961
- continued.

In the
Supreme Court

No. 15

Judgment.

28th July, 1961
- continued.

I turn now to the first ground of appeal. It is conceded by the Crown that such premature condemnation of both appellants, expressed before the conclusion of the case, and indeed, before the prosecution evidence was completed, constituted an irregularity. The only issue is whether in this particular instance the irregularity is curable under the proviso to section 235 (1) of the Criminal Procedure Code which reads:-

"Provided that the Supreme Court may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred."

10

It is common ground that in most cases such an irregularity would be fatal, but in this case no evaluation of conflicting testimony was necessary. The documents themselves disclosed, in the present context, a prima facie case against the appellants. The appellants chose to remain silent in the face thereof. I do not see how it can be said therefore that this irregularity affected the issue in any way. However regrettable, no substantial miscarriage of justice has actually occurred. I therefore apply the proviso to section 235 (1) (supra).

20

In the outcome the appeal is dismissed.

(Sgd.) KNOX MAWER

ACTING PUISNE JUDGE.

30

SUVA.

28th July, 1961.

No. 16

ORDER GRANTING SPECIAL LEAVE TO APPEAL

L.S.

AT THE COURT AT BUCKINGHAM PALACETHE 24th DAY OF OCTOBER, 1961

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

MR. BROOKE

EARL OF PERTH

SIR JOCELYN SIMON

10

BISHOP OF LONDON

SIR KENNETH DIPLOCK

W H E R E A S there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 16th day of October 1961 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 of Janme Jai Prasad and Jaimuni Prasad in the matter of an Appeal from the Supreme Court of Fiji (Appellate Jurisdiction) between the Petitioners and Comptroller of Customs Respondent setting forth (amongst other matters) that the Petitioners pray for special leave to appeal to Your Majesty in Council from the Judgment and Order of the said Supreme Court dated the 28th July 1961 whereby the Petitioners' Appeal from their conviction by the Court of the Senior Magistrate Lautoka on the 17th April 1961 of making a false entry in a document contrary to Section 116 of the Customs Ordinance Cap. 166 was dismissed: And humbly praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Judgment and Order of the Supreme Court of Fiji (Appellate Jurisdiction) dated the 28th day of July 1961 or for further and other relief.

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In the
Privy Council

No. 16

Order granting
Special Leave
to Appeal.24th October,
1961.

In the
Privy Council

No. 16

Order granting
Special Leave
to Appeal.

24th October,
1961

- continued.

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble 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 against the Judgment and Order of the Supreme Court of Fiji (Appellate Jurisdiction) dated the 28th day of July 1961:

10

"And Their Lordships do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioners of the usual fees for the same."

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.

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

30

W. G. AGNEW.

EXHIBITSExhibitsEXHIBIT "B" - APPLICATION FOR BUSINESS NAMES
REGISTRATION AND CERTIFICATE

"B"

Application
for Business
Names Regis-
tration and
Certificate,Certified a True Copy
(Sgd) T. Mackey
L.S. Asst. REGISTRAR-GENERAL.Registration of
Business Names
Ordinance 1923.Business Name No. 1813
Registration Fee 10s.
Adhesive stamps
R.R. No.....23rd May
1949.

Reference to Subsequent Registration No....

APPLICATION FOR REGISTRATION BY A FIRM (Section 4)

DECLARATION.

10

This Declaration is only required if the Statement is not signed by all the individuals who are partners and by a Director or the Secretary of each Corporation which is a partner.

I, _____ of the town of _____ in the province of _____ in the Colony of Fiji do solemnly and sincerely declare and affirm that all the particulars contained in the within statement dated the day of _____ 19 _____ and signed by me, which is now produced and shown to me marked _____ are true.

20

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

Declared at
this _____ day of _____ 19 _____

Stamp Duty
2/-

A Commissioner.

J. PRASAD BROTHERS hereby apply for registration under the provisions of the Registration of Business Names Ordinance 1923, and for that purpose furnish the following statement of particulars:-

- | | |
|--|--------------------|
| 1. The business name | J. PRASAD BROTHERS |
| 2. The general nature of the business | CARGO CARRIERS |
| 3. The principal place of the business | LAUTOKA |
| 30 4. The date of the commencement of the business
if the business was commenced after 28th
November, 1923 | 1st May, 1949 |
| 5. Any other business name or names under which
the business is carried on | Nil |

Lodged by J. Prasad & Brothers

Lautoka

Registered 10 Jun 1949
at 10.50 a.m.

Date 10th Jun 1949 at 10.50 a.m.

B.L. Gregg

40 L.S. Registrar-General.

Exhibits

"B"

Application
for Business
Names Regis-
tration and
Certificate,

23rd May
1949

- continued.

The present Christian name or names and surname of every individual who is - and the corporate name of every corporation which is - a partner in the firm	Any former Christian name or names or surname of every individual partner in the firm	The nationality of every individual partner in the firm	The nationality of origin (if other than the present nationality) of every individual partner in the firm	The usual residence of every individual who is - and the registered or principal office of every corporation which is - a partner in the firm	The other business occupation (if any) of every individual or corporation partner in the firm
1. JAMNA PRASAD F/N Niranjan	Indian		Sabeto, Nadi	Farmer	NIL
2. JANMEJAI PRASAD F/N Dukharan	(British)		Leutoka	NIL	NIL
3. JAIMUNI PRASAD F/N Dukharan	"		Leutoka	NIL	NIL

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Dated this 23rd May 1949

- (1. Jamna Prasad
- (2. Janmejai Prasad
- (3. Jaimuni Prasad

Signatures

Registration of Business
Names Ordinance 1923.

Form 6.

No. of Certificate 1813

CERTIFICATE OF REGISTRATION.

50

I hereby certify that a statement applying for registration furnished by J. PRASAD BROTHERS of LAUTOKA, CARGO CARRIERS pursuant to section 4 of the above mentioned Ordinance was registered on the TENTH day of JUNE 1949.

Dated the TENTH day of JUNE 1949.

L.S.
M.K.D.

B.L. Gregg
Deputy Registrar-General.

EXHIBIT "E.6" - INVOICE WITH CERTIFICATE OF VALUE

Exhibits

"E.6"

Place and Date London, 23rd February 1960

Invoice with Certificate of Value,

INVOICE of Laundry Blue supplied by Richardson & Co. (London) Ltd., of 10, South Molton Street, London, W.1. to C.M. Patel & Sons of Lautoka, Fiji Isles to be shipped per s.s. "PORT DUNEDIN"

23rd February 1960.

Order No. 6784

United Kingdom

Country from which consigned

10

20

Country of Origin	Marks and numbers on packages	Quantity and description of goods	Selling price to purchaser	
			@	Amount
U.K.	C.M.P. 6784 LAUTOKA 1/5	5 cwts "LITTLE BOY" Blue square Washing Blue 1 oz. squares Freight London-Lautoka Insurance	122/6	30.12. 6 5. 0. 2 <u>5. 2</u> £35.17.10
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> Magistrates Court Lautoka 123/61 E6 28/3/61 </div>		5 Cases each 22 $\frac{1}{2}$ " x 16" x 10 $\frac{3}{4}$ " 1 cwt Little Boy Blue in each Gross Weight 1.0.16 Nett Weight 1.0.0.		C.I.F. LAUTOKA

30

Enumerate the following charges and state whether each amount has been included in or excluded from the selling price to purchaser:-

40

	Amount in currency of exporting country	State if included in above selling price to purchaser
(1) Cartage to rail, and/or to docks or airport	}	Included
(2) Inland freight (rail or canal) and other charges to the dock area including inland insurance		
(3) Labour in packing the goods into outside packages		
(4) Value of outside packages		
(5) If the goods are subject to any charge by way of royalties		

State full particulars of Royalties below:

Notes.

Exhibits

"E.6"

Invoice with
Certificate of
Value,

23rd February
1960

- continued.

ANTIGUA, BAHAMAS, BARBADOS, BERMUDAS, BRITISH GUYANA, BRITISH SOLOMON ISLANDS, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, CYPRUS, (for goods other than refined sugar, extract of sugar and molasses, and manufactured tobacco), DOMINICA, MALAY STATES Federated and Unfederated, FIJI, GIBRAITAR, GILBERT AND ELLICE ISLANDS, GRENADA, MONTSERRAT, ST. CHRISTOPHER-NEVIS, ST. HELENA, ST. LUCIA, ST. VINCENT, FALKLAND ISLANDS, SEYCHELLES, STRAITS SETTLEMENTS, HONG KONG, TONGA ISLANDS, TRINIDAD and TOBAGO, TURKS and CAICOS ISLANDS.

Combined Certificate of Value and of Origin, and Invoice of goods 10

I, WILLIAM F. LEVERKUS Director of Richardson & Co. (London) Ltd. of 10, South Molton Street, London, W.1. supplier of the goods enumerated in this invoice amounting to £35.17.10d. hereby declare that I have the authority to make and sign this certificate on behalf of the aforesaid supplier and that I have the means of knowing and do further certify as follows:

VALUE

- 1. That this invoice is in all respects correct and contains a true and full statement of the price actually paid or to be paid for the said goods, and the actual quantity thereof. 20
- 2. That no different invoice of the goods mentioned in the said invoice has been or will be furnished to anyone; and that no arrangements or understanding affecting the purchase price of the said goods has been or will be made or entered into between the said exporter and purchaser, or by anyone on behalf of either of them, either by way of discount, rebate, compensation or in any manner whatever other than as fully shown on this invoice, or as follows None 30

ORIGIN

(This part is for use only where goods are entitled to Preferential Tariff Rates)

- 3. (a) That every article mentioned in the said invoice has been wholly produced or manufactured in U.K. 3. (b) That every article mentioned in the said invoice has been either wholly or partially produced or manufactured in
- 4. As regards those articles only partially produced or manufactured in; 40
- (a) That the final process or processes of manufacture have been performed in that part of the British Dominions/Empire.

(b) That the expenditure in material produced in
and/or labour performed in
calculated, subject to qualification hereunder, in each
and every article is not less than one-fourth/one-half
of the factory or works costs of such article in its
finished state (see note below)

Exhibits

"E.6"

Invoice with
Certificate of
Value,

5. That in the calculation of such proportion of produce
or labour of the none of the following items
has been included or considered -

23rd February
1960

- continued.

- 10 "Manufacturer's profit or remuneration of any trader,
"agent, broker or other person dealing in the articles
"in their finished condition; royalties; cost of
"outside packages or any cost of packing the goods
"thereinto; any cost of conveying, insuring, or
"shipping the goods subsequent to their manufacture."

NOTE - In the case of goods which have at some stage entered
into the commerce of or undergone a process of manufacture
in a foreign country only that labour and British Empire
material which is expended on or added to the goods after
their return to the United Kingdom or other part of the
British Empire shall be regarded as the produce or manufacture
of the United Kingdom or other part of the British Empire in
calculating the proportion of labour and material in the
factory or works cost of the finished article.

Dated at London this 23rd day of February, 1960.

Witness: Illegible. Signature W.F. Leverkus.



ExhibitsEXHIBIT "E.3" - ORDER SHEET"E.3"Order Sheet,
7th May 1960.Office and Sample Rooms
Vitogo Parade
LautokaBankers
Bank of New Zealand
Lautoka.Telephone 219 Lautoka
2747 Suva
Telegraphic & Cable
Address:
"JANPRASAD" LautokaORDER SHEET

Branch Office - Suva

J. PRASAD BROTHERS

10

Manufacturers' Representatives
Indentors, Exporters & Distributors.

No. 6964 Lautoka, Fiji 7th May, 1960.

To: Messrs. Richardson & Co. (London) Ltd., Shipping Marks
To be consigned to: M/s. N. Dayaram & Sons.
Address: P.O. Box 88, Nadi.

Forwarding Instructions:

Shipment to Lautoka Port, sight draft
through Bank of New Zealand, Nadi.5 Cases Little Boy Blue 1 oz. pkts.
@ 122/6 cwt.

20

f.o.b. U.K. Port.

Magistrates Court
Lautoka

To be shipped on Combined Bill of Lading

CR 123/61

C of C J Prasad
Bros.

E3

28/3/61.

Orders once placed will not be cancelled without the consent
of the suppliers. All orders are subject to confirmation
and acceptance by our Principals, whose contracts are con-
tingent upon lock-outs, strikes fires, acts of God, Force
majeure and anything beyond our control.

30

EXHIBIT "C.1" - ORDER SHEET

Office and Sample Rooms
 Vitogo Parade
 Lautoka
 Bankers
 Bank of New Zealand
 Lautoka.

Telephone 219 Lautoka
 2747 Suva
 Telegraphic & Cable
 Address:
"JANPRASAD" Lautoka

Exhibits
 "C.1"
 Order Sheet,
 20th May 1960.

ORDER SHEET

Branch Office - Suva

10 FKS J. PRASAD BROTHERS
 Manufacturers' Representatives
 Indentors, Exporters & Distributors.

No. 6984 Lautoka, Fiji. 20th May, 1960.

To: Messrs. William Edge & Sons Ltd.,	Shipping Marks
To be consigned to: Messrs. Sanji Jadavji	S.J. & Co.
& Co.,	6984.
P.O. Box No.6, Nadi.	NADI.

SHIP PER FIRST AVAILABLE DIRECT STEAMER TO LAUTOKA
 PORT.

20 SIGHT DRAFT THRU' BANK OF NEW SOUTH WALES LAUTOKA.

10 cases "Little Boy" Brand Blue @122/6 per cwt.
 lbs.
 112/x 1 ozs packets.

f.o.b. London

Stamp
 Illegible.

30 Orders once placed will not be cancelled without the consent
 of the suppliers. All orders are subject to confirmation
 and acceptance by our Principals, whose contracts are con-
 tingent upon lock-outs, strikes, fires, acts of God, Force
 majeure and anything beyond our control.

Exhibits

EXHIBIT "D.3" - INVOICE WITH CERTIFICATE OF VALUE

"D.3"

Place and Date London 27th June, 1960.

Invoice with
Certificate of
Value,
27th June 1960.

INVOICE of Washing Blue supplied by Richardson & Co. (London) Ltd., of 10 South Molton Street, London, W.1. to J. Prasad Bros., of P.O. Box 99, LAUTOKA, Fiji Isles, to be shipped per m.v. "PORT WYNDHAM"

United Kingdom

Order No. 6895

Country from which consigned.

Country of Origin	Marks and numbers on packages	Quantity and description of goods	Selling price to purchaser	
			@	Amount
U.K.	NIDHI 5895 LAUTOKA Nos 1/5	5 cases each 22 $\frac{1}{2}$ " x 16" x 10 $\frac{1}{4}$ ", 1 cwt nett 1 cwt - qrs 16 lbs gross 5 cwt "Little Boy" Blue 1 oz Squares	111/- per cwt	£27.15.0.
Magistrates Court Lautoka CR 123/61 CJC J. Prasad Bros. D3 28/3/61		H.M. CUSTOMS 20 JUL 1960 10629 IMPORT FIJI Payment Received	Exch	C.T.F. LAUTOKA £27.15.0. 2.15.6. 11.1. £31. 1.7.

10

20

Enumerate the following charges and state whether each amount has been included in or excluded from the selling price to purchaser:-

	Amount in currency of exporting country	State if included in above selling price to purchaser
(1) Cartage to rail, and/or to docks or airport	}	Included
(2) Inland freight (rail or canal) and other charges to the dock area including inland insurance		
(3) Labour in packing the goods into outside packages		
(4) Value of outside packages		
(5) If the goods are subject to any charge by way of royalties		
		Nil

30

40

State full particulars of Royalties below:

Notes:

ANTIGUA, BAHAMAS, BARBADOS, BERMUDAS, BRITISH GUIANA, BRITISH SOLOMON ISLANDS, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, CYPRUS, (for goods other than refined sugar, extract of sugar and molasses, and manufactured tobacco), DOMINICA, MALAY STATES Federated and Unfederated, FIJI, GIBRALTAR, GILBERT AND ELLICE ISLANDS, GRENADA, MONTserrat, ST. CHRISTOPHER-NEVIS, ST. HELENA, ST. LUCIA, ST. VINCENT, FALKLAND ISLANDS, SEYCHELLES, STRAITS SETTLEMENTS, HONG KONG, TONGA ISLANDS, TRINIDAD and TOBAGO, TURKS and CAICOS ISLANDS.

Exhibits

"D.3"

Invoice with Certificate of Value,

27th June 1960
- continued.

10 Combined Certificate of Value and of Origin, and Invoice of goods

I, WILLIAM F. LEVERKUS Director of Richardson & Co. (London) Ltd. of London supplier of the goods enumerated in this invoice amounting to £27.15.0d hereby declare that I have the authority to make and sign this certificate on behalf of the aforesaid supplier and that I have the means of knowing and do further certify as follows:

VALUE

- 20 1. That this invoice is in all respects correct and contains a true and full statement of the price actually paid or to be paid for the said goods, and the actual quantity thereof.
2. That no different invoice of the goods mentioned in the said invoice has been or will be furnished to anyone; and that no arrangements or understanding affecting the purchase price of the said goods has been or will be made or entered into between the said exporter and purchaser, or by anyone on behalf of either of them, either by way of discount, rebate, compensation or in any manner whatever other than as fully
- 30 shown on this invoice, or as follows

ORIGIN

(This part is for use only where goods are entitled to Preferential Tariff Rates)

- | | |
|--|---|
| 3. (a) That every article mentioned in the said invoice has been wholly produced or manufactured in United Kingdom | 3. (b) That every article mentioned in the said invoice has been either wholly or partially produced or manufactured in |
|--|---|
- 40 4. As regards those articles only partially produced or manufactured in
- (a) That the final process or processes of manufacture have been performed in that part of the British Dominions/ Empire.

Exhibits

"D.3"

Invoice with
Certificate of
Value,

27th June 1960
- continued.

(b) That the expenditure in material produced in
and/or labour performed in
calculated, subject to qualification hereunder, in each
and every article is not less than one-fourth/one-half
of the factory or works costs of such article in its
finished state (see note below)

5. That in the calculation of such proportion of produce
or labour of the none of the following items
has been included or considered -

- "Manufacturer's profit or remuneration of any trader, 10
- "agent, broker or other person dealing in the articles
- "in their finished condition; royalties; cost of
- "outside packages or any cost of packing the goods
- "thereunto; any cost of conveying, insuring, or
- "shipping the goods subsequent to their manufacture."

NOTE - In the case of goods which have at some stage entered
into the commerce of or undergone a process of manufacture
in a foreign country only that labour and British Empire
material which is expended on or added to the goods after
their return to the United Kingdom or other part of the 20
British Empire shall be regarded as the produce or manufacture
of the United Kingdom or other part of the British Empire in
calculating the proportion of labour and material in the
factory or works cost of the finished article.

Dated at London this 27th day of June, 1960.

Witness: Illegible. Signature W.F. Leverkus.



EXHIBIT "D.4" - INVOICE WITH CERTIFICATE OF VALUE

Exhibits

"D.4"

Invoice with Certificate of Value,
27th June 1960.

Place and Date London, 27th June 1960.

INVOICE of Washing Blue supplied by Richardson & Co. (London) Ltd., of 10, South Molton Street, London, W.1. to Messrs. C.M. Patel & Sons of P.O. Box 28, Lautoka, Fiji Isles to be shipped per m.v. "PORT WYNDHAM".

United Kingdom

Order No. 6895

Country from which consigned.

10

Country of Origin	Marks and numbers on packages	Quantity and description of goods	Selling price to purchaser	
			@	Amount
U.K.	NIDHI 5895 LAUTOKA 1/5	5 x 1 cwt "LITTLE BOY" Blue 1 oz squares Freight London-Lautoka Insurance	cwt 122/6	30.12. 6 5. 0. 2 4. 3 <u>£35.16.11</u> C.I.F. LAUTOKA
		Measurements No.1/5 Case 22 ¹ / ₂ " x 16" x 10 ³ / ₂ " 1 cwt LITTLE BOY Blue 1 oz. squares in each. £1.0.16 gross £1.0.0. nett C.I.F. Exch.		£35.16.11 3.11. 8 14. 4 <u>40. 2.11</u> 8. 0. 7 <u>48. 3. 6</u> 1.10. 2 <u>49.13. 8</u> 10 <u>49.14. 6</u> 2. 6 <u>2. 6</u> <u>£49.19. 6</u>
Magistrates Court Lautoka CR 123/61 CJC J. Prasad Bros. D4 28/3/61			Duty 20% P.C.S.T. 3 ³ / ₄ % Wharfage Bank charges Cust. entering Fijian	

20

30

Enumerate the following charges and state whether each amount has been included in or excluded from the selling price to purchaser:-

40

50

	Amount in currency of exporting country	State if included in above selling price to purchaser
(1) Cartage to rail, and/or to docks or airport	}	Included
(2) Inland freight (rail or canal) and other charges to the dock area including inland insurance		
(3) Labour in packing the goods into outside packages		
(4) Value of outside packages		
(5) If the goods are subject to any charge by way of royalties		Nil

State full particulars of Royalties below:

Notes:

Exhibits

"D.4"

Invoice with
Certificate of
Value,
27th June 1960
- continued.

ANTIGUA, BAHAMAS, BARBADOS, BERMUDES, BRITISH GUIANA, BRITISH SOLOMON ISLANDS, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, CYPRUS, (for goods other than refined sugar, extract of sugar and molasses, and manufactured tobacco), DOMINICA, MALAY STATES Federated and Unfederated, FIJI, GIBRALTAR, GILBERT AND ELLICE ISLANDS, GRENADA, MONTSERRAT, ST. CHRISTOPHER-NEVIS, ST. HELENA, ST. LUCIA, ST. VINCENT, FALKLAND ISLANDS, SEYCHELLES, STRAITS SETTLEMENTS, HONG KONG, TONGA ISLANDS, TRINIDAD and TOBAGO, TURKS and CAICOS ISLANDS.

Combined Certificate of Value and of Origin, and Invoice of goods 10

I, WILLIAM F. LEVERKUS Director of Richardson & Co. (London) Ltd. of 10, South Molton Street, London, W.1. supplier of the goods enumerated in this invoice amounting to £35.16.11d hereby declare that I have the authority to make and sign this certificate on behalf of the aforesaid supplier and that I have the means of knowing and do further certify as follows:

VALUE

- 1. That this invoice is in all respects correct and contains a true and full statement of the price actually paid or to be paid for the said goods, and the actual quantity thereof. 20
- 2. That no different invoice of the goods mentioned in the said invoice has been or will be furnished to anyone; and that no arrangements or understanding affecting the purchase price of the said goods has been or will be made or entered into between the said exporter and purchaser, or by anyone on behalf of either of them, either by way of discount, rebate, compensation or in any manner whatever other than as fully shown on this invoice, or as follows 30

ORIGIN

(This part is for use only where goods are entitled to Preferential Tariff Rates)

- 3 (a) That every article mentioned in the said invoice has been wholly produced or manufactured in U.K. 3. (b) That every article mentioned in the said invoice has been either wholly or partially produced or manufactured in
- 4. As regards those articles only partially produced or manufactured in; 40
- (a) That the final process or processes of manufacture have been performed in that part of the British Dominions/ Empire.

(b) That the expenditure in material produced in
and/or labour performed in
calculated, subject to qualification hereunder, in each
and every article is not less than one-fourth/one-half
of the factory or works costs of such article in its
finished state (see note below)

Exhibits

"D.4"

Invoice with
Certificate of
Value,

27th June 1960
- continued.

5. That in the calculation of such proportion of produce
or labour of the none of the following items
has been included or considered -

- 10 "Manufacturer's profit or remuneration of any trader,
"agent, broker or other person dealing in the articles
"in their finished condition; royalties; cost of
"outside packages or any cost of packing the goods
"thereunto; any cost of conveying, insuring, or
"shipping the goods subsequent to their manufacture."

NOTE - In the case of goods which have at some stage entered
into the commerce of or undergone a process of manufacture
in a foreign country only that labour and British Empire
material which is expended on or added to the goods after
their return to the United Kingdom or other part of the
British Empire shall be regarded as the produce or manufacture
of the United Kingdom or other part of the British Empire in
calculating the proportion of labour and material in the
factory or works cost of the finished article.

Dated at London this 27th day of June, 1960.

Witness: Illegible. Signature W.F. Leverkus.



Exhibits

EXHIBIT "C.4" - INVOICE WITH CERTIFICATE OF VALUE

"C.4"

Invoice with
Certificate of
Value,
28th June 1960.

Place and Date London, 28th June 1960.

INVOICE of Washing Blue supplied by Richardson & Co. (London)
Ltd. of 10, South Molton Street, London, W.1. to Messrs. J.
Prasad Bros. of P.O. Box 99, Lautoka, Fiji Isles to be shipped
per s.s. "PORT WYNDHAM"

Country from which consigned
United Kingdom

Order No. 7039

227

Country of Origin	Marks and numbers on packages	Quantity and description of goods	Selling price to purchaser		
			@	Amount	
U.K.	J.P.B. 7039 LAUTOKA 1/20 20 Cases	20 x 1 cwt LITTLE BOY BLUE 1 oz. squares	cwt 111/-	£111. 0. 0	10
		H.M. CUSTOMS 19 Jul 1960 10573 IMPORT Payment Received		C.I.F. LAUTOKA £111. 0. 0 11. 2. 0 2. 4. 5 £124. 6. 5	
	Measurements 22 $\frac{1}{2}$ " x 16" x 10 $\frac{3}{4}$ "	1 cwt LITTLE BOY BLUE in each. 1. 0.16 gross 1. 0. 0 nett.			20
	Stamp Illegible	We hereby certify that we have received from J. Prasad Bros. the sum of Stg £111. being payment in full of the amount drawn upon them by Richardson & Co. of London. For Bank of New Zealand H.J. MacLeod Manager.	Exch		
	Accept VFD	£124. 6. 5.			

Enumerate the following charges and state whether each amount has been included in or excluded from the selling price to the purchaser.

	Amount in currency of exporting country	State if included in above selling price to purchaser	
(1) Cartage to rail, and/or to docks or airport)	Included	40
(2) Inland freight (rail or canal) and other charges to the dock area including inland insurance			
(3) Labour in packing the goods into outside packages			
(4) Value of outside packages			
(5) If the goods are subject to any charge by way of royalties			

State full particulars of Royalties below:

Printed Notes.

ANTIGUA, BAHAMAS, BARBADOS, BERMUDAS, BRITISH GUIANA, BRITISH SOLOMON ISLANDS, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, CYPRUS, (for goods other than refined sugar, extract of sugar and molasses, and manufactured tobacco), DOMINICA, MALAY STATES Federated and Unfederated, FIJI, GIBRALTAR, GILBERT AND ELLICE ISLANDS, GRENADA, MONTSERRAT, ST. CHRISTOPHER-NEVIS, ST. HELENA, ST. LUCIA, ST. VINCENT, FALKLAND ISLANDS, SEYCHELLES, STRAITS SETTLEMENTS, HONG KONG, TONGA ISLANDS, TRINIDAD and TOBAGO, TURKS and CAICOS ISLANDS.

Exhibits

"C.4"

Invoice with Certificate of Value,

28th June 1960
- continued.

10 Combined Certificate of Value and of Origin, and Invoice of goods

I, WILLIAM F. LEVERKUS Director of Richardson & Co. (London) Ltd. of 10, South Molton Street, London, W.1. supplier of the goods enumerated in this invoice amounting to £111. 0. 0. hereby declare that I have the authority to make and sign this certificate on behalf of the aforesaid supplier and that I have the means of knowing and do further certify as follows:

VALUE

- 20 1. That this invoice is in all respects correct and contains a true and full statement of the price actually paid or to be paid for the said goods, and the actual quantity thereof.
- 2. That no different invoice of the goods mentioned in the said invoice has been or will be furnished to anyone; and that no arrangements or understanding affecting the purchase price of the said goods has been or will be made or entered into between the said exporter and purchaser, or by anyone on behalf of either of them, either by way of discount, rebate, compensation or in any manner whatever other than as fully
- 30 shown on this invoice, or as follows

ORIGIN

(This part is for use only where goods are entitled to Preferential Tariff Rates)

- 3. (a) That every article mentioned in the said invoice has been wholly produced or manufactured in U.K.
- 3. (b) That every article mentioned in the said invoice has been either wholly or partially produced or manufactured in

- 40 4. As regards those articles only partially produced or manufactured in

- (a) That the final process or processes of manufacture have been performed in that part of the British Dominions/ Empire.

Exhibits

"C.4"

Invoice with
Certificate of
Value,

28th June 1960

- continued.

(b) That the expenditure in material produced in
and/or labour performed in
calculated, subject to qualification hereunder, in each
and every article is not less than one-fourth/one-half
of the factory or works costs of such article in its
finished state (see note below)

5. That in the calculation of such proportion of produce
or labour of the none of the following items
has been included or considered -

- "Manufacturer's profit or remuneration of any trader, 10
- "agent, broker or other person dealing in the articles
- "in their finished condition; royalties; cost of
- "outside packages or any cost of packing the goods
- "thereunto; any cost of conveying, insuring, or
- "shipping the goods subsequent to their manufacture."

NOTE - In the case of goods which have at some stage entered
into the commerce of or undergone a process of manufacture
in a foreign country only that labour and British Empire
material which is expended on or added to the goods after
their return to the United Kingdom or other part of the 20
British Empire shall be regarded as the produce or manufacture
of the United Kingdom or other part of the British Empire in
calculating the proportion of labour and material in the
factory or works cost of the finished article.

Dated at London this 28th day of June 1960.

Witness: Illegible. Signature W.F. Leverkus.



EXHIBIT "C.3" - INVOICEExhibits"C.3"

Phone No. 219

INVOICE

P.O. Box No. 99

Invoice,

Vitogo Parade,
Lautoka, Fiji.

13. 7.60.

13th July 1960.

M/s Samji Jadavji & Co.
Nadi.

No. 5909.

BOUGHT OF J. PRASAD BROTHERS
General Merchants, Commission and Shipping AgentsTerms Monthly. All goods at purchaser's risk during transit.

10

Ex Port Wyndham

10 cases "Blue" 122/6 cwt	Stg	61. 5. 0
Freight London/Lautoka		9. 9. 8
Insurance		<u>10. 4</u>
	Stg	71. 5. 0
Exchange Rate 12%		<u>8.11. 0</u>
		79.16. 0
Duty Rate 20%		15.19. 3
D.C.S.T. 33 $\frac{1}{4}$ % on £79.16.0.		<u>2.19.10</u>
		98.15. 1
Wharfage		1. 8
Bank charges		5. 0
Custom Duty		<u>2. 6</u>
		<u>£99. 4. 3</u>

20

£99. 4. 3.

Signatures Illegible.

ExhibitsEXHIBIT "D.1" - INVOICE

"D.1"
Invoice,
14th July 1960.

Phone No. 219

INVOICE

P.O. Box No. 99

Vitogo Parade,
Lautoka, Fiji.

14. 7.60

M/s C.M. Patel & Sons
Lautoka

No. 5912

BOUGHT OF J. PRASAD BROTHERS
General Merchants, Commission and Shipping Agents

Terms Monthly All goods at purchaser's risk during transit

Port Wyndham

10

5	Little Boy Blue	cwt 122/6	30.12. 6
	Freight Lond.- Laut.		5. 0. 2
	Ins.		<u>4. 3</u>
	CR 123/61		35.16.11
	CJC J. Prasad Bros. Exchange		3.11. 8
	D1 ?		<u>14. 4</u>
	28/3/61		40. 2.11
	Duty 20%		<u>8. 0. 7</u>
			48. 3. 6
	P.C.S.T. $3\frac{3}{4}\%$ on £40. 2. 11.		<u>1.10. 2</u>
			49.13. 8
	Bank charges etc.		2. 6
	Customs Entries etc.		<u>2. 6</u>
			49.18. 8
	Wharfage		<u>10</u>
			<u>£49.19. 6</u>

20

EXHIBIT "D.2" - CUSTOMS DECLARATION

Exhibits

"D.2"

Customs Declaration,

18th July 1960.

10

H.M. CUSTOMS
20 JUL 1960 10629
IMPORT
PAYMENT FIJI RECEIVED

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H.M. CUSTOMS, FIJI - IMPORT ENTRY
Port of: Lautoka Ship: Port Wyndham From: U.K. Arrived 12/7/1960
Owner J.Prasad Bros. Agent: J.Prasad Bros. Rotation No: 60/67

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For Official Use	Lic. No.	Cock. No.	Marks and Nos.	Packages and Packages		Description of Goods	Quantity	Wharfage	Country of Origin	Tariff Item	Value for Duty	Rate of Duty	Duty Payable	Statistical Code
				No.	Type									
		20/35	NIDHI 5895 LAUTOKA 1/5	5	c/s	Laundry Blue	560 lbs.	10	U.K.	49	31. 1. 7	20%	6. 3. 9	552-02
TOTAL														
For Official Use I declare RECEIVED JUL 19 H.M. CUSTOMS LAUTOKA that I am the owner of the goods: that I enter the goods as of the value and of the description and quantities stated in this entry, and for home consumption; and that the particulars as stated in this entry are true and correct in every respect.														
Signature: J. Prasad Bros. J.J. Prasad 18. 7.60.														

Signature: J. Prasad Bros.
J.J. Prasad
18. 7.60.

Exhibits

EXHIBIT "E.1" - INVOICE WITH CERTIFICATE OF VALUE

"E.1"

Invoice with
Certificate of
Value,
18th July 1960.

Place and Date London 18th July 1960.

INVOICE of Laundry Blue supplied by Richardson & Co. (London) Ltd., of 10 South Molton Street, London, W.1. to J. Prasad Bros., of P.O. Box 99, LAUTOKA, Fiji Isles to be shipped per m.v. "Nottingham"

United Kingdom

Order No. 6964

Country from which consigned.

Country of Origin	Marks and numbers on packages	Quantity and description of goods	Selling price to purchaser		
			@	Amount	
U.K.	M.D. & SONS 6964 NADI LAUTOKA 1/5 5 cases M.D.P. 7016 LAUTOKA 1/5 5 cases S.J. & Co. 6984 NADI/ LAUTOKA 1/10 <u>10 cases</u>	Magistrates Court Lautoka CR 123/61 C of C J. Prasad Bros. E1 28/3/61			10
					20
		20 cases each 1 cwt "Little Boy" Laundry Blue 1 oz squares viz 20 cwts	per cwt		
		Each case 22 $\frac{1}{2}$ " x 16" x 10 $\frac{3}{4}$ "	111/-	£111. 0. 0	
		£1. -. - nett		C.I.F. LAUTOKA	30
		£1. -.16 gross	Exch.	£111. 0. 0 13. 6. 5 <u>£124. 6. 5</u>	

Enumerate the following charges and state whether each amount has been included in or excluded from the selling price to purchaser:-

	Amount in currency of exporting country	State if included in above selling price to purchaser	
(1) Cartage to rail, and/or to docks or airport	}	Included	40
(2) Inland freight (rail or canal) and other charges to the dock area including inland insurance			
(3) Labour in packing the goods into outside packages			
(4) Value of outside packages			
(5) If the goods are subject to any charge by way of royalties			

State full particulars of Royalties below:

Notes:

ANTIGUA, BAHAMAS, BARBADOS, BERMUDAS, BRITISH GUIANA, BRITISH SOLOMON ISLANDS, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, CYPRUS, (for goods other than refined sugar, extract of sugar and molasses, and manufactured tobacco), DOMINICA, MALAY STATES Federated and Unfederated, FIJI, GIBRALTAR, GILBERT AND ELLICE ISLANDS, GRENADA, MONTSERRAT, ST. CHRISTOPHER-NEVIS, ST. HELENA, ST. LUCIA, ST. VINCENT, FALKLAND ISLANDS, SEYCHELLES, STRAITS SETTLEMENTS, HONG KONG, TONGA ISLANDS, TRINIDAD and TOBAGO, TURKS and CAICOS ISLANDS.

Exhibits
"E.1"

Invoice with
Certificate of
Value,
18th July 1960
- continued.

10 Combined Certificate of Value and of Origin, and
Invoice of goods

I, WILLIAM F. LEVERKUS Director of Richardson & Co. (London) Ltd. of London supplier of the goods enumerated in this invoice amounting to £111. 0. 0. hereby declare that I have the authority to make and sign this certificate on behalf of the aforesaid supplier and that I have the means of knowing and do further certify as follows:

VALUE

- 20 1. That this invoice is in all respects correct and contains a true and full statement of the price actually paid or to be paid for the said goods, and the actual quantity thereof.
2. That no different invoice of the goods mentioned in the said invoice has been or will be furnished to anyone; and that no arrangements or understanding affecting the purchase price of the said goods has been or will be made or entered into between the said exporter and purchaser, or by anyone on behalf of either of them, either by way of discount, rebate, compensation or in any manner whatever other than as fully
30 shown on this invoice, or as follows

ORIGIN

(This part is for use only where goods are entitled to Preferential Tariff Rates)

- | | |
|---|--|
| <p>3. (a) That every article mentioned in the said invoice has been wholly produced or manufactured in United Kingdom</p> | <p>3. (b) That every article mentioned in the said invoice has been either wholly or partially produced or manufactured in</p> |
|---|--|
- 40 4. As regards those articles only partially produced or manufactured in
- (a) That the final process or processes of manufacture have been performed in that part of the British Dominions/
Empire.

Exhibits

"E.1"

Invoice with
Certificate of
Value,

18th July 1960
- continued.

(b) That the expenditure in material produced in
and/or labour performed in
calculated, subject to qualification hereunder, in each
and every article is not less than one-fourth/one-half
of the factory or works costs of such article in its
finished state [see note below]

5. That in the calculation of such proportion of produce
or labour of the none of the following items
has been included or considered -

"Manufacturer's profit or remuneration of any trader, 10
"agent, broker or other person dealing in the articles
"in their finished condition; royalties; cost of
"outside packages or any cost of packing the goods
"thereunto; any cost of conveying, insuring, or
"shipping the goods subsequent to their manufacture."

NOTE - In the case of goods which have at some stage entered
into the commerce of or undergone a process of manufacture
in a foreign country only that labour and British Empire
material which is expended on or added to the goods after
their return to the United Kingdom or other part of the 20
British Empire shall be regarded as the produce or manufacture
of the United Kingdom or other part of the British Empire in
calculating the proportion of labour and material in the
factory or works cost of the finished article.

Dated at London this 18th day of July, 1960.

Witness: Illegible. Signature W.F. Leverkus.

EXHIBIT "C.2" - RECEIPT FOR GOODS

Exhibits

"C.2"

Receipt for
goods,
20th July 1960.

No. 7865

Lautoka: 20. 7. 1960.

M J. P. Bros. Lautoka

Received from

BURNS PHILIP (S.S.) COMPANY, LTD.

as agents for Port Wyndham

in good order and condition the undermentioned goods :-

Lorry No. 9542

10

Marks &
Nos.

For Samji Jadavji & Co.

J.P.B.
Lautoka

7039

10 c/s Laundry Blue 20/38

4/6. 8. 9.

12/13/16/18

Stamp and signatures

Illegible.

Exhibits

"E.4"

EXHIBIT "E.4" - INVOICE

Invoice,
10th August
1960.

Phone No. 219

INVOICE

P.O. Box No.99

Vitogo Parade,
Lautoka, Fiji.

10.8.1960

M/s M. Dayaram & Sons
Nadi

No. 5971

BOUGHT OF J. PRASAD BROTHERS
General Merchants, Commission and Shipping Agents

Terms Monthly All goods at purchaser's risk during transit

Ex Nottingham

10

Order No.6964

5 c/s Little Boy Blue 122/6 cwt	30.12. 6
Freight	5. 0. 2
Insurance	<u>5. 2</u>
	£35.17.10
Exchange 12%	<u>4. 6. 2</u>
	£40. 4. 0
Custom duty 20%	8. 0.10
P.C.S.T. $3\frac{3}{4}\%$ on £40.4.0.	1.10. 2
Wharfage	10
Bank charges	<u>2. 6</u>
	<u>£49.18. 8</u>

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123/61

£49.18. 8

E4

EXHIBIT "E.2" - CUSTOMS DECLARATION

Exhibits

"E.2"

Customs
Declaration,
12th August
1960.

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H.M. CUSTOMS, FIJI - IMPORT ENTRY
 H.M. CUSTOMS
 15 AUG 1960 12
 IMPORT
 PAYMENT FIJI RECEIVED

Port of: Lautoka Ship: Nottingham From: U.K. Arrived: 12/8/1960
 Owner: J.Prasad Bros. Agent: Selves. Rotation No: 60/77

For Off. Use	Lic. No.	Cock. No.	Marks and Nos.	Packages		Description of Goods	Quan- tity	Whar- fage	Country of Origin	Tariff Item	Value for Duty	Rate of Duty	Duty Payable	Statis- tical Code
				No.	Type									
		17/30	H.D. & Sons 6964 NADI LAUT. 1/5	5	c/s	Laundry Blue	2240 lbs.	10	U.K.	49				552-02
		17/21	MDP 7016 LAUTOKA 1/5	5	c/s	Laundry Blue		10			124.6.5	20%	24.17.3	
		17/22	S.J. & Co. 6984 NADI/LAUT. 1/10	10	c/s	Laundry Blue		1.8 3.4						
TOTAL											124.6.5	5 DUTY	24.17.3	U.C.O.
											Wharfage		3.4	I.G.O.
											P.C.S.T.	3 3/4%	4.13.3	
											Treble Bond Charges			C.O.
											TOTAL		29.13.10	

For Official Use: I declare:-

that I am the owner of the goods;

that I enter the goods as of the value and
of the description and quantities stated
in this entry, and for home consumption; andthat the particulars as stated in this entry
are true and correct in every respect.

Signature: J.J. Prasad
 Date: 12/8/60.

Exhibits

"E.5"

Receipt for
goods,15th August
1960.EXHIBIT "E.5" - RECEIPT FOR GOODS

No. 9954

Lautoka, 15. 8. 1960.

M M. Dayaram & Sons

Received from

BURNS PHILP (S.S.) COMPANY, LTD.

as agents for Nottingham

in good order and condition the undermentioned goods :-

Marks & Nos.	<u>Lorry No. 2410</u>		
N D & Sons 6964 Nadi 4.2.5.	3 c/s Laundry Blue	17/30	10
S J & Co. 6984 1 & 8	2 do.	17/32	

5 Five only

123/61

E5

28/3/61

Signatures
illegible.

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EXHIBIT "C.5" - CUSTOMS DECLARATION

Exhibits

"C.5"

Customs Declaration,

15th August 1960.

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H.M. CUSTOMS, FIJI - IMPORT ENTRY
 H.M. CUSTOMS
 19 JUL 1960 10573
 IMPORT
 PAYMENT FIJI RECEIVED

Port of: Lautoka Ship: Port Wyndham From: U.K. Arrived 12/7/1960
 Owner J.Prasad Bros. Agent: J.Prasad Bros. Rotation No: 60/67

For Off. Use	Lic. No.	Cock. No.	Marks and Nos.	Packages and No. Type	Description of Goods	Quantity	Wharfage	Country of Origin	Tariff Item	Value for Duty	Rate of Duty	Duty Payable	Statistical Code
		20/38	J.P.B. 7039 Lautoka 1/20	20 c/s	Laundry Blue	lbs 2240	3. 4	U.K.	49	124.6. 5	20%	24.17.3	552-02
TOTAL										124.6. 5	DUTY	24.17.3	U.C.O.
										Wharfage		3.4	I.G.O.
										P.C.S.F. 3 1/4%		4.13.3	
										Treble Bond Charges			
										TOTAL		29.13.10	

For Official Use I declare:

RECEIVED
 JUL 18
 H.M. CUSTOMS
 LAUTOKA

that I am the owner of the goods;
 that I enter the goods as of the value and of the description and quantities stated in this entry, and for home consumption; and that the particulars as stated in this entry are true and correct in every respect.

Signature: J. Prasad Bros.
 J.J. Prasad

Date 15/8/60.

Exhibits

"A"

EXHIBIT "A" - AUTHORITY TO SIGN CUSTOMS
DOCUMENTS

Authority to sign
Customs documents,

14th December
1960.

TO THE COLLECTOR OF CUSTOMS,
LAUTOKA.

In accordance with the provisions of Section 113 of the
Customs Ordinance WE, J. PRASAD BROTHERS of LAUTOKA in the
Colony of FIJI hereby authorise JANMAI JAI PRASAD of LAUTOKA
to sign at the port of any Declaration,
bond, or Security or other document required under the Customs
Ordinance and We agree and hereby consent that any declaration, 10
bond or security, or other document so signed shall be valid
and binding on us and We further agree and consent that this
authority shall remain in full force and effect until notifi-
cation of withdrawal thereof shall have been given in writing
by us to the Collector of Customs at the port of LAUTOKA.

Dated at Lautoka this 14th day of December 1960.

Signature J. PRASAD

FULL POSTAL ADDRESS: Box 99
Lautoka.

J.J. Prasad

Witness P. Eley 14.12.60.

