

~~GN9 62~~

Judgment (18) 1964

IN THE PRIVY COUNCIL

NO.36 of 1963

ON APPEAL

FROM THE COURT OF APPEAL OF TRINIDAD AND TOBAGO

B E T W E E N:

RAMDEO BUCKETT

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
22 JUN 1965
25 RUSSELL SQUARE
LONDON, W.C.1.

- 78577

T.L. WILSON & CO.,
6 Westminster Palace Gardens,
London, S.W.1.
Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
37 Norfolk Street,
London, W.C.2.
Solicitors for the Respondents.

IN THE PRIVY COUNCILNo.36 of 1963ON APPEALFROM THE COURT OF APPEAL OF TRINIDAD AND TOBAGOB E T W E E N :

RAMDEO BUCKETT

Appellant

- and -

THE QUEEN

RespondentRECORD OF PROCEEDINGSINDEX OF REFERENCE

No.	Description of Document	Date	Page
	<u>In the High Court</u>		
1	Indictment		1
2	Proceedings	17th April 1963	2
	<u>Prosecution Evidence</u>		
3	Sarraijah Chotoo	17th April 1963	3
4	Inderjit Dial	17th April 1963	7
5	Oscar Deane	17th April 1963	9
6	George McDonald Phillip	17th April 1963	10
7	Gordon Waterman	17th April 1963	11
8	Johnson George	17th and 18th April 1963.	14
9	Winfield Hinds	18th April 1963	16
10	George Kalloo	18th April 1963	18
11	Chin Sue Min	18th April 1963	20
12	Mahadeo Ramouter	18th April 1963	21

No.	Description of Document	Date	Page
13	Sonnyboy Sookwah	18th April 1963	22
14	Boysie Soodoo	18th April 1963	24
15	Johnson George (Recalled)	18th April 1963	26
16	Sarraijah Chotoo (Recalled)	18th April 1963	27
17	Carl De Souza	19th April 1963	27
18	Statement by the Accused	19th April 1963	33
19	Judge's Notes	19th and 22nd April 1963	34
20	Summing Up	22nd April 1963	35
21	Verdict and Sentence	22nd April 1963	62
22	Court Minute	22nd April 1963	63
	<u>In the Court of Appeal</u>		
23	Grounds of Appeal	Undated	65
24	Additional Ground of Appeal	Undated	69
25	Judgment	14th June 1963	69
	<u>In the Privy Council</u>		
26	Order granting Special Leave to Appeal in forma pauperis	23rd October 1963	77

E X H I B I T S

Exhibit Mark	Description of Document	Date	Page
J.G.l.	Statement of Accused	30th July 1962	79
C.De S.l	Statement of Accused	10th August 1962	80

DOCUMENTS TRANSMITTED BUT NOT REPRODUCED

In the High Court

Endorsement to Indictment 22nd April 1963

In the Court of Appeal

Notice of Application for
Leave to Appeal 22nd April 1963

IN THE PRIVY COUNCIL

NO.36 of 1963

ON APPEAL

FROM THE COURT OF APPEAL OF TRINIDAD AND TOBAGO

B E T W E E N :

RAMDEO BUCKETT Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

NO.1

INDICTMENT

THE QUEEN V. RAMDEO BUCKET

In the
High Court

IN THE HIGH COURT OF JUSTICE

No.1

PORT OF SPAIN

Indictment

INDICTMENT BY THE ATTORNEY GENERAL

RAMDEO BUCKET is charged with the following offence :-

STATEMENT OF OFFENCE

M U R D E R.

PARTICULARS OF OFFENCE

20 RAMDEO BUCKET, on the 9th day of June, 1962, at San Juan, in the County of St. George, murdered Harry Persad Chotoo.

/s/ G.A.Richards
Attorney-General.

In the
High Court

TRINIDAD AND TOBAGO.

IN THE HIGH COURT OF JUSTICE

No.2

No. 132/62.

Proceedings
17th April 1963

REGINA

vs.

RAMDEO BUCKET

NO.2

PROCEEDINGS

17th April, 1963.

Indictment Read.

10

Plea: Not Guilty.

Herbert Joseph with Mitra Sinanan.

Winzey Bruno for the Crown.

Jury Chosen

- (1) - No.20 - Percy Lall
- (2) - No.22 - Ivan Lee
- (3) - No. 2 - Herbert Archer
- (4) - No.30 - Waldrop Phillip
- (5) - No.19 - Theophil Joseph
- (6) - No.16 - Deo Guinness
- (7) - No.29 - Ronald O'Brien
- (8) - No.42 - Francis Valadere
- (9) - No.37 - Boysie Smith-Bovell
- (10) - No.24 - Julien Millett (Absence)
- (11) - No.6 - Irvin Borell
- (12) - No.40 - William Thomas
- (13) - No.34 - Mohammed Salim

20

Challenges by the Accused - Nil.

Challenges by the Crown - Nil.

Jury Sworn.

30

No.30 - Waldrop Phillip affirms according to his Faith.

Foreman: No.29 - Ronald O'Brien.

Accused put in charge of Jury.

Waiting Jurors discharged until Monday 22nd April, 1963.

Bruno opens case for the Crown.

PROSECUTION EVIDENCE

NO.3

SARRAIJAH CHOTOOSarraijah Chotoo on her oath says:

I live at El Socorro Extension Road. I am a widow. On 9/6/62 about 7.30 p.m. I was at home. My husband Harry Persad was at home with me. My son Ishall also lives in that house. My son is also called "Sweeto". "Sweeto" was not at home that night.

10

Between 7 and 7.30 p.m. my husband was sitting at the dining table where we take dinner. My son has a bedroom in the house and my husband was sitting near to my son's bedroom. I was sitting on a chair in the drawing room. While there I heard a noise outside. I had electric lights in my house. The lights were burning at the time. When I heard the calling at the front steps. I answered. The voice called "Sweeto". I answered. When I heard the call I got up and I was standing by the louvres. When I looked through the Louvres I saw that it was the accused calling. The accused asked me "Where Sweeto". When the accused was speaking to me he had his left hand to his forehead, (witness demonstrates). I could not see his right hand. The accused had on a short pants, and black jersey and he had on a black cap. I could see his face. I saw his face because he was facing me and I was facing him. I was speaking to him. I do not remember if it was a dark night or a moonlight night. I also had a light with a 200 Watt bulb at the front step outside the house.

20

30

I told the accused that Sweeto was not there. The accused asked me where Sweeto gone. I told him that I did not know. The accused told me that he had a message from Barataria. I told him that if he had a message from Barataria that he must move his hand so that I could see his face better. The accused removed his hand and I saw his face better. After the accused moved his hand. He said, "You want me to move my hand" and from the time he move his hand he shot

40

In the
High CourtProsecution
Evidence

No.3

Sarraijah
Chotoo
17th April
1963
Examination

In the
High Court

Prosecution
Evidence

No.3

Sarraijah
Chotoo
17th April 1963
Examination
continued

at the louvres in my son's bedroom. When I watch I did not see my husband at the table. As I pass to go to the kitchen I saw my husband in my son's bedroom lying bleeding. I saw the accused shoot. I saw the gun and I heard a big explosion. I did not see the accused again that night. I started to bawl and people came. The Police also came afterwards. Dr. Dial also came after the police the same night.

10

The body of my husband was removed from my house that night. The same night I went to the police station and there I gave the police a statement. The next day 10/6/62, I returned to the police station. When I got there I attended a parade at the station. There was a line of men. I saw the man who had shot my husband at the parade. When I saw the man I collared him and I said "This is the man who shot my husband". The accused was the man I collared. When I collared him the accused said nothing.

20

The louvres got broken when the accused shot at the louvres.

I knew the accused before the night of the 9th June, 1962. I had known him around 3 months before. I got to know him when he came to me one day to ask for a man named Sahadoo. The accused came to speak to me at my gap on my bridge. Sahadoo is my neighbour who lives opposite to me. That was the first time the accused spoke to me and the second time was the day he shot my husband. I am sure that the accused is the man who spoke to me on the night of 9th June, 1962. I am sure that the accused is the man who fired the shot that killed my husband. I know Dr. Dial.

30

Cross-
examination

Cross-examined by Sinanan:

No one was present beside myself and my husband when I heard a voice calling "Sweeto". This incident happened in the night. This was around 7-7.30 p.m. My house is an upstairs house. When I heard the voice calling I looked through the louvres. I saw the man in the yard while I was looking through the louvres.

40

I spoke to the person while I was looking through the louvres. When the person fired the shot I was still looking through the louvres. I could see his face while his left hand was on his forehead. I was upstairs (witness demonstrates). The man had on a black cap. I could not see what was in his right hand. The man kept his hand up while he was talking to me. His removal of the hand and the firing of the shot happened very quickly and very suddenly.

In the
High Court

Prosecution
Evidence

No.3

Sarraajah
Chotoo
17th April 1963
Cross-
examination
continued

10 I asked the man to remove his hand because I thought the light dazzled his eyes. I said "Take your hand from your face and let me see good who the person is". I say that I knew the person before. Sahadeo lived opposite to me. I gave the police a statement. I wanted to let the police know what happened. The police wrote down what I told them, and I made my mark. I told the police everything that happened that night. I told the police on the night I made
20 the statement that I had known the man who shot my husband before that night. I told the police that night that I had known the man 3 months before. I did not tell the police that night that the accused had come to ask for Sahadeo. On the Sunday I did not give another statement in writing. I just related to them orally. I do not remember if I put my mark on the Sunday. I know on the Saturday I just told
30 the police what happened the night. I do not quite remember if I gave a statement on the Sunday evening. I gave both statements to Insp. DeSouza. Your suggestion that in neither of the two statements which I gave the police did I say that I had known the man who shot my husband 3 months before by his asking me for Sahadeo is not correct. I did tell Souza that I had known the accused by his coming to ask me about Sahadeo.

40 When I gave my statement on the Saturday night the Inspector read it over to me and I put my mark. I do not remember whether the statement on the Saturday night which I signed had any statement to the effect that I had seen the man 3 months before.

After the parade on Sunday 10/6/62 I spoke again to Inspector DeSouza. I do not remember if the Inspector wrote down anything and I put

In the
High Court

my mark to it. I would not doubt that on the Sunday I gave another statement and that I put my mark if you tell me so.

Prosecution
Evidence

No.3

Sarraijah
Chotoo
17th April 1963
Cross-
examination
continued

I remember after the parade at the station. I told Souza that I knew the man and that he had come 3 months before to ask me for Sahadeo. I did not tell him this at the station. I do not know if he put that in the statement to which I put my mark. I told him this at home about my knowing the accused. I did not tell him this at the station.

10

I went to the parade. I saw the police and I saw a line of men. The police asked me to look at the line of men. The police asked me to repeat the report that I had made about the shooting of my husband. I repeated the report in the presence of the 9 men. I did so in front of the 9 men. After repeating the report I looked at the line again. After looking at the line I asked the police to ask each man to say the word "Sweeto". Each man was asked to repeat "Sweeto" or "Sweeto come". I think it was "Sweeto come" from what I remember. Each man in the line said "Sweeto come". When the accused repeated the words "Sweeto come" I rushed up and said "This is the man". I accept your suggestion that the words were "Sweeto come".

20

When I repeated the report he was just in front of me. I was 5 feet away.

30

My husband was shot. The police asked me to attend an identification parade of men. I did not expect to see the man who shot my husband when I went to the parade, but I saw the man and I pick him out. When I went there the police station, the police told me to look at the men and see if I see the man. I gave evidence in July, 1962. I do not remember if I told the magistrate "I expected to see the man who shot my husband". I now say that I did not tell the magistrate "I expected to see the man who shot my husband". I did give evidence. The clerk read over the deposition and I made my mark.

40

I did not know when I went to the parade

that the police had suspected someone. Sahadeo lived opposite to me. I saw Sahadeo on the Saturday night. He is opposite and I had other neighbours on the right and the left. After I bawled then the neighbours came out. This was after the shot was fired. When the shot was fired I did not turn to look at my husband. I did not know my husband got shot.

In the
High Court

Prosecution
Evidence

No.3

10 When I left to go to the louveres my husband was sitting at the table. He did not come to look through the louveres with me. I did not know when he removed from the table. I did not know when he went into my son's room. I was talking to the person through the louveres in the drawing room. My husband got shot through the louveres in my son's bedroom which is a different room altogether. I do not know if he looked through the louveres. When I heard the explosion I did not then know where my husband was.

Sarrajah
Chotoo
17th April 1963
Cross-
examination
continued

20 Re-examination:

Re-examination

I saw Inspector DeSouza the night my husband got shot. I saw him the next day at my home. I talked to DeSouza and I showed him something. I saw DeSouza again after the parade at the station.

By the Jury: No questions.

Adjourned to 11.15 a.m.

Resumed at 11.20 a.m.

NO.4

INDERJIT DIAL

No.4

Inderjit Dial
17th April 1963
Examination

30 Inderjit Dial on his oath says:

I am a member of the Medical Board of Trinidad and Tobago and D.M.O. of St. Joseph. About 9 p.m. on 9/6/62, I viewed the body of a man called Harripersad Chotoo at El Socorro Extension Road. I found the body at his home. I ordered the removal of the body to the mortuary of the St. Joseph Hospital.

40 On 9/6/62, there were multiple injuries of the face, neck and front of the chest. He was lying in a pool of blood.

In the
High Court

Prosecution
Evidence

No.4

Inderjit Dial
17th April 1963
Examination
continued

On 10/6/62, I performed a post mortem examination on the body. The body was identified by Ishal Chotoo the son of the deceased.

I found him to have had multiple puncture wounds on his face, left eye, front neck and the front of the chest. I removed 2 pellets (gun shots) which I gave to Insp. Cockrane. There were no other injuries. I found that the cause of death was shock and haemorrhage as a result of injuries to the brain caused by a pellet. I actually removed a pellet from the brain tissue.

10

The deceased was a healthy person. All the other organs were normal.

I know the accused. About 11.35 a.m. I saw the accused at my office at the Eastern Main Road, St. Augustine. He told me that he had an injury to his left arm. On examination I found that he had 3 incised wounds, superficial, each about 1 inch long on the back of the left lower arm. These injuries could have been caused by a sharp cutting instrument (witness demonstrates). I do not remember what he told me as to how he got those injuries. The injuries were skin deep. Those injuries were skin deep and could have been self-inflicted. If a weapon has edges a person parrying a blow could get 3 wounds such as I saw. The injuries appeared to be recent. I would say that they appeared to be as recent as a number of hours. I would say within 24 hours.

20

30

Cross-
examination

Cross-examined by Sinanan:

It is possible that if he were parrying more than one blow from more than one person he could have got those injuries.

Re-examination

Re-examination:

Those were the only injuries I found on this man.

By the Jury:

40

No questions.

By the Court:

The injury I saw was a gun shot injury on the deceased. It was not a rifle. It was a gun shot. Only one pellet got into the brain and as a result the brain became lacerated. I carried out a complete post mortem examination.

None of the 3 wounds were serious. If there was a parrying action, I would say that they were 3 slight grazes. There was no need to suture the wounds, I merely dressed them.

10

In the
High Court

Prosecution
Evidence

No.4

Inderjit Dial
17th April 1963
Re-examination
continued

NO.5

OSCAR DEANE

Oscar Deane on his oath says:

I am a Corporal of Police attached to C.I.D., Port of Spain. I am an official Police Photographer.

On 9/6/62, I went to El Socorro Extension Road with Inspector De Souza and other policemen. I took certain photographs on the instructions of Insp. DeSouza.

20

The first picture I took was that of a building. It was taken with the camera facing east. It shows a 2 storeyed building. A louvre window is drawn immediately above the front landing. I took three photographs on the night of 9/6/62. These are the 3 photographs. (Three photographs tendered. No objection. Admitted and marked O.D.1-3). On 10/6/62, I returned to El Socorro Extension Road and I took 1 photograph (Tendered, Admitted and Marked Ex. OD.4).

30

With reference to O.D.4, it was taken with the camera facing east. It shows a 2 storeyed building. A louvre window can be seen immediately above the first landing of the stairway leading to the building. There is an electric light bulb which can be seen under the eave of the building. This was taken on 10/6/62 during the day. This building is situated in an open yard.

40

No.5

Oscar Deane
17th April 1963
Examination

In the
High Court

Prosecution
Evidence

No.5

Oscar Deane
17th April 1963
Examination
continued

The 2nd picture OD 1 shows a close up view of the louvre window referred to in O.D.4. A broken louvre can be seen in the centre of the picture.

Ex. O.D.2 shows a close-up view of a portion of the celotex ceiling inside a room in the house referred to in which O.D.1 represents a window of the room. Some indentations can be seen in the ceiling board.

Ex. O.D.3 shows a close-up view of the head of a dead man lying in the room referred to in O.D.2. I was told something about the man.

10

Cross-examined by Sinanan:

No questions.

No.6

George Mc-
Donald Phillip
17th April 1963
Examination

NO.6

GEORGE MCDONALD PHILLIP

George McDonald Phillip on his oath says:

I am a Corporal of Police 4752 attached to C.I.D. I am also a qualified draughtsman. I obtained a diploma from the International Correspondence Schools. I had been a draughtsman for over 12 years. I had given evidence in the courts of this territory in matters of draughtsmanship.

20

On Saturday 16/6/62 I went to the El Socorro Extension Road in company with Insp. DeSouza. I went to a house. I know Sarraijah Chotoo (Sarrajah Chotoo identified). She was present.

30

It is a two-storeyed house. I took certain measurements and I recorded the measurements at the time. The woman pointed out certain spots to me and after taking the measurements I prepared a sketch. I took measurements. I saw a bulb. I see Ex.O.D.4. I see a bulb on the eave of the building. I did not measure the distance from the bulb to the ground.

Cross-examined by Sinanan:

I saw houses on the western side and the northern side of the building.

By the Jury:

No questions.

In the
High Court

Prosecution
Evidence

No.6

George Mc-
Donald Phillip
17th April 1963
Cross-
examination

NO.7

GORDON WATERMAN

Gordon Waterman on his oath says:

No.7

Gordon Waterman
17th April 1963
Examination

10 I am an Inspector of Police attached to C.I.D., Port of Spain.

20 On Sunday 10/6/62, I conducted an investigation parade at the San Juan Police Station. It was conducted in a closed room, it was actually the kitchen of the San Juan Station. No one from outside could see inside the room. This was about 5.10 p.m. The parade consisted of 9 men, i.e. 8 Indian men and the accused. The eight men were approximately the same height, size and complexion as the accused. They were dressed like the accused. The parade lined up facing west, numbering from north to south. When the 8 men lined up, the accused was brought in the parade room by Insp. De Souza who remained on the parade. I told the accused that I am an Inspector of Police and that I am conducting an identification parade in connection with a report of murder which took place at the El Socorro Extension Road where it was reported that a man went into the yard of Harripersad Chotoo on Saturday night 9th June and spoke to his wife and fired a shotgun killing Harripersad Chotoo. I told accused that he was suspected and that a witness who saw what happened would be called on the parade to see if she could identify the man who spoke and who shot the husband. While speaking to the accused I observed that he had

30

In the
High Court

Prosecution
Evidence

No.7

Gordon Waterman
17th April 1963
Examination
continued

two pieces of elastoplast tape and a piece of Gauze on his left forearm. I then put similar pieces of tape and gauze on the left forearm of the other men in the parade. When that was finished the men lined up again and I told the accused that he can take up any position in the line of men that he liked and that if he had any request or objections he could make them to me. The accused made no request or objections and he took up No.9 position.

10

When he was settled I shouted to the charge room for Sgt. Hinds telling him to bring the witness from Santa Cruz Old Road. It was Sarraijah Chotoo. The Witness Sarraijah Chotoo was then 100 yards away from the station. When she arrived in the yard at the back of the station she knocked on the back door and I called her name and I admitted her into the room. I told her that I was conducting an identification parade in connection with the murder of her husband and I asked her if she remembered what happened. She said yes and she repeated her report. I then told her to look along the line of men and if she see the man who spoke to her and shot her husband to touch him. She looked at the line of men and said "I will like to hear them talk". I then instructed the parade starting from No.1 to say the words "Sweeto come". The parade did as I told them, one after the other and when the accused who was in the No.9 position said "Sweeto come" the witness, Sarraijah Chotoo, rushed to him held him by his shirt collar and said "This is the man, This is the man that killed my husband". The accused said nothing when she said so. The accused did nothing. I immediately took her away from him and handed him over to Inspector DeSouza and I dismissed the parade.

20

30

Cross-
examination

Cross-examined by Sinanan:

De Souza was at the office investigating this matter. I knew that when I decided to hold the parade. There were other officers on the parade beside myself and De Souza. The accused was brought in by De Souza from a room in the building. When the men were being lined up I do not know where the witness Sarraijah was. I shouted to Sgt. Hinds to bring the witness.

40

He did not enter the room. When the witness entered the room she did so alone.

It was done in the kitchen. There are other rooms but that was the most convenient. DeSouza brought the accused in the room and I instructed him to remain. I considered that that was the right thing to do. Asst. Supt. McPhillip and P.C. James were also in the room.

In the
High Court

Prosecution
Evidence

No.7

Gordon Waterman
17th April 1963

Cross-
examination
continued

10 When the witness came in the 9 men were al-
ready lined up. I asked her to repeat the re-
port. She did and in the presence and hearing
of the 9 men. She was standing side of me fac-
ing the parade. May be about 5 feet from the
line of men. She was five feet from the parade.
The men were facing her and she was facing the
men. She related the report. She related the
report in a few minutes. I told her to look
along the line of men and if she see the man who
spoke to her and shot her husband, she must
20 touch him. The witness looked at the line of
men. She remained where she was standing and
looked at the line men. This took a matter of
seconds. The next thing she did was she told
me that she would like to hear them talk. I
instructed the men to say "Sweeto come". I got
the words from my own mind. When the witness
was relating the report she said that the man
who came into the yard called her son "Sweeto"
so, I having that in mind thought that it would
30 be appropriate for the men on the parade to use
those words. The witness did not say "Sweeto
come" in relating the story. I would spell it
"Ceto".

40 I gave evidence in the Magistrate's Court.
You asked me questions on this point. I do not
remember if I said I heard the expression "Sweeto
come" in the presence of the accused. I would
not deny I said so. I do admit that I said what
is stated in re-examination in answer to the
questions. I now say that I remember in re-
examination that I told the prosecutor "When the
witness was asked to repeat her report in con-
nection with the shooting, she used the expres-
sion in the presence and hearing of the parade".
I now say, however, that I do not believe that
she said "Sweeto come". The word "come" was
introduced by me when I asked the men to speak.

In the
High Court

Prosecution
Evidence

What the men said sounded to me like "Seeto come". From that time the witness entered the room to the time I asked the men to say those words "Seeto come", I estimate the time to be 4 or 5 minutes. I doubt that it could be more.

No.7

Re-examination: Declined.

Gordon Waterman
17th April 1963
Cross-
examination
continued

By the Jury:

No questions.

By the Court:

10

The only time the witness chose anyone was after the accused had spoken. She made no attempt to chose anyone before that. As soon as the accused spoke the witness without hesitation made one rush at him and held him by the collar.

It would have been impossible for the witness to have known what had taken place in the room before she entered the room. The men were all bareheaded wearing shirts, trousers and shoes. They were short sleeved shirts, mostly sport shirts.

20

No.8

Johnson George
17th and 18th
April 1963
Examination

NO.8

JOHNSON GEORGE

Johnson George on his oath says:

I am a Sergeant of Police stationed at Arouca Police Station. In June 1962, I was in charge of the St. Joseph Police Station. I know the accused. I recall 9/6/62 about 8.15 p.m. I was at the St. Joseph Police Station in the verandah. I saw the accused. He came to the police station around 8.50 p.m. He spoke to me and told me "Dem boys want to kill me because I didn't give them my rum". He also showed me his left hand. By the wrist he had 3 small scratches; they were skin deep. They were side by side. That night I sent him to the hospital with a

30

medical report form. I did not see him again that night.

The accused told me that one Sookrie had inflicted the wounds on him. He told me that the wounds were inflicted at 8.00 p.m. He told me that it was at Bell-Smythe Street in Curepe. The accused also mentioned other names. I caused enquiries to be made into the report.

10

I saw the accused again about 11.30 a.m. on the next morning. I saw him then when he returned to the station. The accused handed in a medical report form that I had given him that night and he gave me a statement. I read it over to him. The accused said that it was correct and he signed it. Statement Tendered, Admitted and Marked J.G.l. (Statement read in Court).

Adjourned to 9.00 a.m. on 18/4/63.

20

Resumed at 9.00 a.m. on 18/4/63.

Johnson George under cross-examination states:

30

At that time I was the S.P.O. in charge of St. Joseph Police Station. The accused came at 8.50 p.m. The accused may have said "kill" or "cut" when he said "Dem boys want". He showed me his left hand which had injuries. He mentioned one Sookrie and he mentioned the names of 2 other boys. He mentioned Attam and Boysie. At the time I did not know those boys. I did not myself make enquiries into the report made by the accused. The accused said that he was attacked by those boys at 8.00 p.m. Cpl. Dasant made enquiries into the complaint. After he made the report I sent the accused for medical attention at the St. Joseph Hospital. He returned the following day with the medical report. When the accused made the report an entry was made in the station diary. The accused had made a previous report against Sookrie. I think he made more than one previous report against Sookrie. Those reports would be written in the station diary. Bell-Smythe Street is in the Curepe District. There is a rumshop in the vicinity of Bell-Smythe Street. Spring

40

In the
High Court

Prosecution
Evidence

No.8

Johnson George
17th and 18th
April 1963
Examination
continued

18th April 1963
Cross-
examination

In the
High Court

Prosecution
Evidence

No.8

Johnson George
17th and 18th
April 1963
Cross-
examination
continued

Village is in the St. Joseph District. It is within walking distance from Bell-Smythe Street. Bell-Smythe Street is a little more than $\frac{1}{2}$ mile from the St. Joseph Police Station. It would be within walking distance of the Police Station. I would have to check on the precise dates of the complaints against Sookrie made by the accused and also the nature of the complaints. After the accused gave the statement on 10/6/62 the accused was taken somewhere. He was taken to the San Juan Police Station. The distance between Bell-Smythe Street and the El Socorro Extension Road is around 3 miles. It could be a little more.

10

Re-examination:

Re-examination

I saw the accused around 11.30 - 12 midday on 10/6/62. I sent the accused to San Juan Police because of information I received from Inspector De Souza. I received the information around 9.00 a.m. on 10/6/62.

20

By the Jury:

No questions.

No.9

Winfield Hinds
18th April
1963
Examination

NO.9

WINFIELD HINDS

Winfield Hinds on his oath says:

I am an Inspector of Police in charge of the C.I.D. at Siparia. In June, 1962, I was Sergeant in charge of the San Juan Police Station. Between 8-9.00 p.m. on 9/6/62 I received a report and as a result I went to the house of Harripersad Chotoo on the El Socorro Extension Road.

30

On my arrival I entered the house in a bedroom in the northern wing of the house, size about 8 ft. by 8 ft., lying on the floor I saw the body of a man, it was the dead body of a man. It was lying on its back with the head southward. The feet northwards. The body was clothed with a terylene shirt and long trousers. I see Ex. O.D.3. This represents

40

the body and the conditions in which I saw the head. There were injuries to the left eye. I saw the wife of the deceased Sarrajah Chotoo who identified the body and spoke to me and made a report. I saw that on the western side of that bedroom in which the body of the deceased was, there are glass louveres in a 3 set pattern and of the centre set I saw the second to last louvere broken and the 3rd to last missing. I see Ex. O.D.1. This is the condition in which I saw the louveres. I also observed that the celotex roofing had what appeared to be pellet holes in the roofing. I see Ex. O.D.2. This represents what the roofing looked like. The night of 9/6/62 was a dark night. The entire yard was flood lit by electric bulbs fitted outside the house. There were at least 4 bulbs fitted at the 4 corners of the house. I remember that the front bulb (witness demonstrates) was a 200 watt and that was lighted.

I made a search and I found pieces of wadding and pieces of pellet on the landing of the front steps. Wadding and pellets Tendered, admitted and marked W.H.1. I saw Dr. Dial on the scene that night. He arrived about 9.55p.m. and he viewed the body and gave me certain instructions. As a result I took the body to the St. Joseph Mortuary. I now produce the clothing which the deceased was wearing. (Shirt and trousers Tendered, Admitted and Marked W.H.2). I know Insp. DeSouza. I saw him there that night making enquiries. I know the accused now. I first met him on Sunday 10/6/62. I saw the accused at San Juan Police Station.

Cross-examined by Sinanan:

I first saw the accused at about 2.00 p.m. at San Juan Police Station at the time. I was not at the station immediately before 2.00 p.m. There would be an entry in the diary showing when the accused arrived. I did not make the entry. I was not at the station when he arrived. When I saw the accused Insp. DeSouza was not at the station. I do not know who brought the accused at the station. I spoke to the accused at 2.00 p.m. on 10/6/62, but not in connection with this incident. The report I received on Saturday

In the
High Court

Prosecution
Evidence

No.9

Winfield Hinds
18th April
1963
Examination
continued

Cross-
examination

In the
High Court

Prosecution
Evidence

No.9

Winfield Hinds
18th April
1963
Cross-
examination
continued

9/6/62 was made by 2 men. One of the men was George Kalloo. I visited the house. There are houses around. There is a house opposite. The distance from the bottom of the step to the road is about 25 feet, i.e. the step in O.D.4. The celotex roofing is about 10 feet from the floor where I saw the body. The room with the broken louvre is the one I refer to. I call that the northern wing. There is an open gallery at the top of the step and a wide door leading from there into the drawing room. Beside the wife of the deceased I talked to other persons I interviewed the neighbours around. I did not take statements from them.

10

Re-examination:

Declined.

By the Jury:

Fragments of glass were found inside the room and also outside on the landing of the steps.

20

Sinanan by leave:

I did not collect the fragments of glass. Nobody collected the fragments of glass.

No.10
George Kalloo
18th April
1963
Examination

NO.10
GEORGE KALLOO

George Kalloo on his affirmation says:

I am a labourer and I live at El Socorro Road. I know the accused. I know him by the name of Bucket. I had known him for 3 years. I remember 9/6/62 about 11.00 p.m. that night I was at Boundary Road, San Juan. I saw the accused that night on Boundary Road, San Juan. This was about 11.00 p.m. The accused was in a motor car. He was sitting in the back seat of the car. The driver of the car was a fellow named Zoot. The accused and the driver and two more persons were in the car. I was going out to drop message in a motor car. The accused and the others were in

30

a car travelling in the opposite direction. I was going to the Yankee Road. Their car pulled right in front of me and stopped. My car stopped. Their lights were taken off and our lights were on. They stayed about 5 minutes. They just watched at us. I could see the accused all this time. He said nothing. Nobody in the car in which the accused was said anything. Nobody in my car said anything. After the 5 minutes they pulled off and we continued.

10

Cross-examined by Sinanan:

I am related to the deceased. I am family to the man who died. I used to visit the deceased at his house. That night I did not make a report to the police station. I did not go to the station the same night. I went to the station 2 days after. Zoot was driving the car. I only know him by Zoot. I do not know his proper name. He is a young, slim dark Indian chap. I did not see him around the court this morning. The car was H.C.8876 that Zoot was driving. This was about 11.00 p.m. This was Boundary Road. I was going to the Churchill-Roosevelt Highway. Both cars stopped. I did not call out to the accused. I knew him before. I cannot say what clothes the accused had on. Maybe it was a white shirt. I just cannot say. I do not know why his car pulled in front of my car. Between 8-900 p.m. I was down by the house where the man got shot. I gave a statement about 2 days later. I gave a statement to a constable named James. It could not be more than 2 days. I knew Zoot before. I did not call out to him. I did not ask him why he was blocking the road. I did not get out of my car. The car in which I was did not switch off lights. I have no doubt that it was Zoot. I saw in that car and that was the number of that car. I did not watch at the colour of the shirt. I did not see what shirt he had on. I gave evidence in the magistrate's court. I signed the deposition. What I told the Magistrate was true. I did say that the accused had on a white shirt, when I gave evidence before the magistrate. The person in my car was Yassim or Azim. I do not know if he went to the Police. He did not go to the

40

In the
High Court

Prosecution
Evidence

No.10

George Kalloo
18th April 1963
Examination
continued

Cross-
examination

In the
High Court

Prosecution
Evidence

No.10

George Kalloo
18th April 1963

Cross-
examination
continued

Re-examination

station with me. I was going to tell the family that Harripersad had got shot. I am married to Harripersad's niece. Boundary Road is Aranguez. The distance from Harripersad's house to Boundary Road is a good distance. I saw the accused near Kirpalani's building. That is about 1 miles or so from Harripersad's house.

Re-examination:

I got the news of Harripersad's death around 7.00 p.m. I left my house and I went to Harripersad's house. I remained at Harripersad's house until about 10.00 p.m. I then went all round San Juan dropping messages. I know the San Juan Police Station. I do not know in what road it is.

10

By the Jury:

No questions.

No.11

Chin Sue Min
18th April 1963
Examination

Cross-
examination

NO.11

CHIN SUE MIN

Chin Sue Min on his oath says:

I am a shopkeeper. I live at the corner of Bush and Bell-Smythe Street.

Cross-examined by Sinanan:

I have a shop there. I sell rum. I sell other things. The shop was open on Saturday 9/6/62. I closed the shop about 8.00 p.m. that night. Plenty people came to my shop that night. The shop was busy. It sell rum and everything else. I cannot remember everybody who came to the shop that Saturday night.

20

30

By the Jury:

No questions.

Sinanan by leave:

I gave the police a statement after 9/6/62.

NO. 12
MAHADEO RAMOUTER

In the
High Court

Mahadeo Ramouter on his oath says:

Prosecution
 Evidence

I am a coconut vendor. I live at McInroy Street, Curepe. I know the accused. I know him by the name Bucket. I have known him for 6 to 7 months. I did not know the accused on 9/6/62. I am also called Attam. I never had any trouble with the accused on Saturday 9/6/62.

 No.12

Mahadeo Ramouter
 18th April 1963
 Examination

10 Cross-examined by Sinanan:

Cross-
 examination

I am also called Attam. I know Sookrie. I know where he lives. I know Boysie Soodoo. Sookrie's proper name is Sonny boy Sookwah. He lives in the same district as me. He is friendly with me. I am also friendly with Boysie Soodoo. I know where he lives. I am friendly with him.

20 I know where the rum shop is at Bush Street and Bell-Smythe Street. I know Chin Sue Min who is the proprietor. I did not see Bucket on Saturday 9/6/62. I remember that Saturday. I know Bucket. I do not know where he lives. I do not know a man called Bates. I do not know Supri. I do not know a man called Counce. I live about $\frac{1}{4}$ mile from Chin Sue Min's rum shop. I do not know if the accused made a report about me to the St. Joseph Police Station. It was on the Monday following the Saturday 9th June, i.e. 11th June, 1962. The police took a statement
 30 from me on the Monday. The police did not tell me that Bucket had made a report. I do not remember the name of the policeman. I do not know whether Bucket made any report against me before 9/6/62. The police never came to me about any report before 9/6/62. I do not remember 25/5/62. I would not know where I was on 25/5/62 at 8.00 p.m. I cannot remember if the police came to see me a fortnight before about a report.

40 I know McDonald Street. Before Saturday 9th June, 1962, the St. Joseph Police never came to see me about a report made against me. I know the corner of McInroy and Jackson Street.

In the
High Court

(Mr. Sinanan asked leave to withdraw questions as to 25/5/62 and 1/6/62.)

Prosecution
Evidence

I know Cpl. Dasant attached to the St. Joseph Police Station.

No.12

Re-examination:

Declined.

Mahadeo Ramouter
18th April 1963
Cross-
examination
continued

By the Jury:

No questions.

No.13

NO.13

Sonnyboy
Sookwah
18th April
1963
Examination

SONNYBOY SOOKWAH

10

Sonnyboy Sookwah on his oath says:

I am a gardener. I live at Rapsey Street, Curepe. On Saturday 9/6/62, I know the accused. I know him by the name of Bucket. I did not know him on 9/6/62. I know a man called Sookrie. I am that man. I am also called Sookrie. I know Chin Sue-Miñ's shop. I did not go to the shop on the night of the 9/6/62. I was at home. I had a cold. I had it for about 3 days. I did not see the accused at all on the night of 9/6/62. If the accused said that I cut the accused with a knife there would be no truth in that. I did not leave my house on the night of the 9/6/62 at all. I know Boysie Soodoo. I did not see Boysie on the 9/6/62.

20

Adjourned to 11.15 a.m.

Resumed at 11.30 a.m.

Cross-
examination

Sonnyboy Sookwah under cross-examination says:

I know Bucket. I said that I did not know him on 9/6/62. After I left the witness box I realized that I had made a mistake. When I said that I did not know him on 9/6/62 that was not correct. I now say that I knew

30

him for 5 to 6 months. I realize the mistake after I left the witness box. I knew the accused before 9/6/62. I knew him for about 5 to 6 months before 9/6/62. I knew him in May, 1962. I know where Chin Sue Min's Rum Shop is. I live about $\frac{1}{4}$ mile from the rum shop. Boysie Soodoo does not live near to me. I know him; he lives about $\frac{1}{4}$ mile from me. I am friendly with him. I know Attam. He lives side of Boysie. I know Attam. I talk to him.

In the
High Court

Prosecution
Evidence

No.13

Sonnyboy
Sookwah
18th April 1963
Cross-
examination
continued

10 On 9/6/62, I had a cold. Between 7.30-8.00 p.m. I was at home. I gave a statement to the police on 11.6.62. I gave a statement to Inspector DeSouza. Between 9/6/-11/6/62. I did not see any police from the St. Joseph Police Station. When Insp. De Souza came hē mēt me at home and he told me that he wanted a statement from me.

20 Nobody had ever told me at anytime that Ramdeo Bucket had made a report about me at the St. Joseph Police Station. When DeSouza saw me on 11/6/62 he told me that Bucket had made a report about me on 9/6/62 at the St. Joseph Police Station. Insp. DeSouza told me that Bucket had reported that me and 2 other boys had attacked him. The Inspector told me that Bucket had said that he would cut them with a knife. My nickname is Supri. I am also called Sookrie. I know McDonald Street, Curepe. I know McInroy and Jackson Street. I do not know a boy called Bates. I do know a boy called Counce.

30
40 On 25/5/62 at about 8.00 p.m. I cannot remember where I was. On 1/6/62 between 5-6.00 p.m. I do not remember where I was. The St. Joseph Police never came to see me about reports made by Bucket in the month of June. I do not know if Bucket made any report about me on 2/6/62. I do not own a penknife. I never owned a penknife. I do drink. I drink rum. On 9/6/62 I was not near Chin Sue Min's Rum Shop. I was not in company with Boysie and Attam on 9/6/62. It is not true me and Boysie attacked the accused. It is not correct to suggest that I wanted to take away the rum of the accused. I was not on speaking terms with the accused. I only know Counce as the name of the man. He lives at the Corner of Joyeau and McInroy

In the
High Court

Prosecution
Evidence

No.13

Sonnyboy
Sookwah
18th April 1963
Cross-
examination
continued

Re-examination

Streets. That is nearly $\frac{3}{4}$ mile from me. I have gone to Chin Sue Min's Rum Shop once or twice. I had never bought rum from that shop. I never had trouble with Bucket about a bicycle. I have never had any trouble with Bucket. No dispute. No previous trouble.

Sometimes in the evening I stand in the street with the other boys and talk. I would stand at the corner of McInroy and Joyeau Street. Myself, Attam,Boysie and the others.

10

Re-examined:

Inspector De Souza was not alone. They had other policemen with him. I was still ill when the Inspector came to see me. I had never spoken to Bucket before 9/6/62. I knew the accused by passing and seeing him.

By the Jury:

No questions.

By the Court:

The first time I heard that the accused had made a report about me at the St.Joseph's Police Station was when Inspector De Souza spoke to me on the 11/6/62. The Inspector did not tell me what I was supposed to have done. I never made 2 stabs at the accused. I never had any quarrel with the accused. To my knowledge I never had a dispute with the accused nor did any of my friends.

20

No.14

Boysie Soodoo
18th April
1963
Examination

NO.14

BOYSIE SOODOO

30

Boysie Soodoo on his oath says:

My name is Boysie Soodoo and I work at the Works Department at St. Joseph. I know the accused. I do not know him by any name. I know him by his face. I know Sonnyboy Sookwah also called Sookrie. (Sookwah identified).

On 9/6/62 I never saw the accused on that

night. I was not in Sookrie's company that night. I did not see Sookrie at all. I was home around 8.00 p.m. that night. I did not go out at all on that night.

In the
High Court

Prosecution
Evidence

Cross-examined by Sinanan:

No.14

Boysie Soodoo
18th April 1963
Examination
continued

Cross-
examination

10 I am called Boyie and Boysie. I know Attam. He is my next door neighbour. He lives next to me and Sookrie lives about $\frac{1}{4}$ mile from me. He lives in Rapsey Street. I am friendly with Sookrie and I am friendly with Attam. We meet sometimes to talk now and then. I know the corner of Joyeau and McInroy Streets. I never meet Sookwah and Attam at the corner of McInroy and Joyeau Street. I never meet Sookwah and Attam at Joyeau Street and McInroy. I know what liming means.

20 On 9/6/62 I was at home. On 1/6/62 between 6-7.00 p.m. I do not remember where I was. On 25/5/62 I do not remember where I was. I remember the 9th June, 1962, because on 10th June, 1962 Insp. DeSouza came to my home and he spoke to me. He spoke to me about the 9/6/62. He told me that a report was made about me on 9/6/62 by Ramdeo Bucket at the St. Joseph Police Station. He told me what was the nature of the report. He told me that Bucket had reported that me, Sookrie and Attam had attacked him on 9/6/62 and that the Inspector did not tell me that Sookrie had cut the accused with a knife but
30 he told me that one of us had cut Bucket with a knife. The Inspector took a statement from me. I know Chin Sue Min's Rum Shop at the corner of Belle-Smythe Street. I have never gone into that shop. It is about $\frac{1}{4}$ mile away from my home. Nobody except DeSouza told me that three of us hold him by Min's Shop. DeSouza told me that the accused said that we had tried to take away some rum from him.

40 On 9/6/62, I had known Bucket for about 7 months. I did not know him to talk to. I had never spoken to him. I never had any dispute with Bucket during the seven months. We had no dispute or quarrel. I know the accused by seeing the accused pass my house in McInroy Street. I did not know his name by Bucket before 10/6/62. DeSouza told me the name Bucket after I gave him

In the
High Court

Prosecution
Evidence

No.14

Boysie Soodoo
18th April 1963
Cross-
examination
continued

a statement. When he told me that the name was Bucket I told him that I did not know who it was. When I had the talk with the Inspector, I did not know who was the boy that he referred to. I did not ask the Inspector who the boy was.

I do not know if Bucket made any report to the Police before 9/6/62. Nobody from the St. Joseph Police came to me before 9/6/62. I am in no position to say if I saw Bucket on 25/5/62 and 1/6/62. I know Counce. He lives at the corner of Joyeau Street and McInroy Street. He is my friend. I do not know any person named Bates. I talk to Counce at Joyeau Street and McInroy Street Corner. When Insp. DeSouza saw me on 9/6/62, I realized that it was an Inspector talking to me. I did not feel when the Inspector spoke to me that I would get in trouble. I can't see where I would have got into trouble. I know a man named Lappo. I do not know if he has a brother called Bates. I did not know where the accused was living on 9/6/62. I saw the accused a good many times during the 7 months.

10

20

Re-examined:

No questions.

By the Jury:

No questions.

No.15

Johnson George
(Recalled)
Cross-
examination

NO.15

JOHNSON GEORGE

Johnson George recalled by leave of the Court -

30

by Sinanan:

I produce the Station Diary - Tendered, Admitted and Marked J.G.2. At folio 279 there is an entry made on 2/6/62 purporting to be a report made by the accused. This report was made at 7.50 a.m. on 2/6/62. The accused is recorded as leaving the station at 7.55 p.m. I do not know if this complaint was investigated. I gave instructions.

By the Jury:

No questions. Jury read report in Ex.J.G.2.

40

NO.16
SARRAIJAH CHOTOO

In the
High Court

Sarraijah Chotoo recalled says on her oath:

Prosecution
Evidence

My son was called "Sweeto" and also Ishal Chotoo. My son Ishal Chotoo is dead. He died about 21st of a month. I saw his dead body and he was buried. He was 25 years old.

No.16

Sarraijah Chotoo
 (Recalled)
 18th April 1963
 Examination

10

Mr. Bruno asks that in the light of the evidence of the witness that the depositions be read in accordance with Chapter 4, No.1 section 38(1) (a) Indictable Offences (Preliminary Enquiry) Ordinance, Chapter 4 No.1, i.e. the depositions of the witness Ishal Chotoo.

Cross-examined by Sinanan:

20

My son Ishal Chotoo is dead. I know that two other men are charged in connection with his death. I gave evidence in the Magistrate's Court at a preliminary enquiry in which 2 men named Shilling known as Sonny Ramroop and Sarcoomar are charged with the murder of my son Sweeto. I accept your suggestion that that is so. I agree that I gave evidence at the preliminary enquiry.

No objection to the application by Sinanan. Application Granted. Depositions of the witness Ishal Chotoo read in Court.

Court Clerk reads the depositions of the witness Ishal Chotoo. Depositions Admitted and Marked "A".

30

Adjourned to 9.00 a.m. on 19.4.63.

Resumed 19th April, 1963.

NO.17

No.17

CARL DESOUZA

Carl DeSouza
 19th April 1963
 Examination

Carl DeSouza on his oath says:

I am an Inspector of Police attached to the C.I.D., Port of Spain. I recall 9/6/62. At about 9.00 p.m. I was on patrol duty in El Socorro Road. While on patrol I received

In the
High Court

Prosecution
Evidence

No.17

Carl DeSouza
19th April 1963
Examination
continued

certain information and I went to El Socorro Road, San Juan to the home of Mrs. Chotoo. (Sarrajah Chotoo identified). I entered the building and I saw the dead body of Harriper-sad Chotoo lying in a pool of blood in a bedroom in the upper floor of the building to the front. I see Ex. O.D.2. This is a picture of the body I saw lying in the room. I see Ex. O.D.4. This is a picture of the building to which I went. I noticed heavy blood on the floor of the room and the deceased clothing was saturated with blood. There were also pieces of glass on the floor near the deceased. The third louvre of the window was broken. I see Ex. O.D.1. I see the louvre that was broken. I was alone when I went and I met Sgt. Hinds and Dr. Dial on the scene.

10

I arrived at the premises at 9.05 p.m. I took over the investigations. I took Sarrajah Chotoo to the San Juan Police Station. She was very confused and excited and she was crying more or less all the time. She gave me a statement at San Juan Police Station the same night. She was still excited while she was giving me the statement. She eventually left the station. I sent her back home. I continued my enquiries.

20

On Sunday morning 10/6/62, I was looking for a particular person after the woman had spoken to me. I went back to Chotoo's home at about 7.45 a.m. She gave me a description of the man that had shot her husband. She told me something about the man. As a result of what she told me I went to St. Joseph Police Station where I met Sgt. George the S.P.O. in charge of the station. I spoke to Sgt. George. After having spoken to Sgt. George, I left for Curepe in search of the man answering the description that she gave me. I did not find the man in my search. I returned to St. Joseph Police Station. I met Sgt. George who told me something. As a result of what he told me I went to San Juan Police Station where I met the accused Ramdeo Bucket. I spoke to Ramdeo Bucket. I asked him where he lived. He told me that he lived at Spring Village. I asked him if he was employed and he told me not presently. I asked him who were his parents.

30

40

He told me. I then asked him for a statement in writing. He gave me a statement which I recorded in writing. I read it over to him and he said that it was correct and he signed the statement. I used no threats or promises. This is the statement. Statement Tendered, Admitted and Marked C.S.1. (Statement read in Court by the witness).

In the
High Court

Prosecution
Evidence

No.17

10 I continued my investigations and later on the 10/6/62 I was present at an investigation held at San Juan Police Station conducted by Insp. Waterman. The accused was on the parade. There were 9 men on the parade. The accused took the No.9 position. This was at his own request. The accused and the other eight men that formed the parade were all Indians, young men approximately the same ages, same complexion and appearance as the accused. I saw the accused who was identified by Sarraijah Chotoo. On
20 the parade she asked Mr. Waterman to allow the men to speak and he told the men to say "Sweeto come" one at a time. Nos. from 1 to 8 said "Sweeto come" and she remained in her same position. As the accused said "Sweeto come" she rushed up and collared him and began shaking him and she then said "This is the man that shoot my husband". Mr. Waterman and I took her away from the accused. Mr. Waterman discussed the parade and I spoke to Sgt.Hinds giving him certain instructions about the woman. He then left and
30 took her to his quarters. I took the accused into the charge room. Later the same day I charged the accused with the murder of Harriper-sad Chotoo. I cautioned him and he said I have nothing more to say. I recorded that in writing and read it over to him. I asked him to sign it and he said that I am not signing it.

Carl DeSouza
19th April 1963
Examination
continued

Cross-examined by Sinanan:

Cross-
examination

40 I have some experience of investigation. I did not search the house of the accused. I did not interview a man by the name of Zoot. I interviewed neighbours around the house of Chotoo. I interviewed a man by the name of Sahadeo. I did not take a statement from Sahadeo. I did not interview a taxi driver named Azim or Yassim.

In the
High Court

Prosecution
Evidence

No.17

Carl DeSouza
19th April 1963
Cross-
examination
continued

I know Boundary Road, Aranguez. I know where the Kirpalani Building is. That is about $\frac{3}{4}$ mile from the house of Chotoo. I took the statement from the accused about 3.00 p.m. on Sunday 10/6/62. I first saw him at the San Juan Police Station about 2.50 p.m. That was when I first spoke to him. I took Mrs. Chotoo to the San Juan police station about 11.40 p.m. At the station I took a written statement from her. She made her mark. I read it over and she said that it was correct. I wanted to get all the information I could from her as far as possible. In an investigation of the nature, I would want to know all about the person who had shot her husband and whom she had seen. She gave approximate times. She was able to tell me where her husband was when he was shot. She was able to tell me that a man came into the yard and spoke to her. The statement was 2 $\frac{1}{2}$ foolscap sheets. On that night she gave me a description of a man which I wrote down in the statement. In the statement she did not tell me that she had known the man or that she had seen him before. I did not ask her if she had seen the man before.

10

20

The following morning I went to the home of Mrs. Chotoo to make further enquiries. She spoke to me and I spoke to her. After speaking to her I did not look at the building again. I did not look at the louveres. I looked at the ceiling the said night. After speaking to her I went to St. Joseph. I saw Sgt. George around 9.00 a.m. Sgt. George drew my attention to a report which the accused had made about being attacked on that night. I did not see the report. After I saw Sgt. George I went to Spring Village, Curepe, then Caroni, Tunapuna and then Pasea Village. I got back to San Juan Station about 2.50 p.m. I interviewed the 3 men mentioned by the accused in his report to the police. I interviewed them at Curepe. I interviewed one on Sunday 10/6/62 in the afternoon between 4-5.00 p.m. and I interviewed the other two about Tuesday after 10.6.62. The three men are Mahadeo Ramoutar, Sookwah and Boysie Soodoo. The parade took place at 5.05 p.m. on the Sunday afternoon. I interview Boysie Soodoo

30

40

on 11/6/62 at 6.30 p.m. I interviewed Mahadeo Ramoutar alias Attam on 11/6/62 at 6.30 p.m. I interviewed Sonnyboy Sookwah on 12/6/62 at 1.25 p.m. When I interviewed each one I told them of the report which the accused had made about their attacking him on the night of 9/6/62. I told them that one of them is supposed to have used a knife and that the accused is alleged to have sustained injuries.

In the
High Court

Prosecution
Evidence

No.17

Carl DeSouza
19th April 1963
Cross-
examination
continued

10 At the San Juan Police Station I interviewed Bucket. I did not caution him before I spoke to him. Before I took the statement we conversed. When I asked the accused if he would be a part of the parade he consented readily. I did not tell the accused the nature of the report when I interviewed him at the station. I did not ask the accused to give an account of his movements between the hours of 7-8.00 p.m. on the night of 9/6/62. In the course of his statement to me he
20 gave an account of his movements from 8.30 p.m. up to 10 minutes to 10 on 9/6/62. I did not tell the accused that Sunday afternoon that there was any allegation that he had shot this man. I did not ask the accused if he was connected with any shooting or if he knew anything about any shooting. I did ask the accused about a man called Shilling at that interview that Sunday
30 afternoon and he mentioned in his written statement what he knew about Shilling. The proper name of the man called Shilling is Sonny Ramroop. Sonny Ramroop I knew to be a taxi driver 3 or 4 years ago plying for hire between San Juan and Port of Spain. When I asked about Shilling I was referring to a man called Sonny Ramroop. Sonny Ramroop is now in the Royal Gaol on a charge of murder. I am the complainant in that matter. Sonny Ramroop and another man called Sewcoomar were arrested by me and charged by me with the murder of Ishal Chotoo who is also called "Sweeto".
40 Ishal Chotoo was alleged to have been shot in September, 1962. At that time I would expect that the accused was in custody in the Royal Gaol. At the parade which was held on the Sunday afternoon the accused was picked out. When she asked the Inspector to let the men talk she was standing 3 or 4 feet in front of the parade. Inspector Waterman had asked her to look along the line and it was after that that she said that she would like to hear them talk.

In the
High Court

Prosecution
Evidence

No.17

Carl DeSouza
19th April 1963
Cross-
examination
continued

Mrs. Chotoo was in the room for about 1½ minutes before she asked the Inspector to let them talk. Waterman asked her to repeat her report in the presence of the 9 men whom she was then facing. I was on the parade. I remember when Mrs. Chotoo came in to the room. Waterman opened the door, she came in and I saw that she came from the back of the station.

I went to Spring Village on the Sunday 10/6/62. I did not interview anyone at the St. George County Council in connection with Ramdeo Bucket. I spoke to his father and mother who live at Spring Village. I went to Chin Sue Min's grocery on the Monday after the shooting on 11/6/62. I spoke to his father and mother about 2 or 3 days after 9/6/62. I went back to Chin Sue Min after 11/6/62. I did go to the St. Joseph Hospital. I went there on Monday 11/6/62.

I took a statement from a man called George Kalloo. I am not quite sure that I took the statement myself. He did give a statement. The statement was taken by Cpl. Roberts on 13/6/62. The accused was arrested about 6.00 p.m. on 10/6/62. I then cautioned the accused.

On the Sunday 10/6/62 Mrs. Chotoo gave me more detailed facts, i.e. a fuller description of the man who had shot her husband. When I asked about Shilling I had known Ramroop before.

Re-examination

Re-examined:

I did not interview Zoot because I made every possible effort to find the man Zoot throughout the San Juan district, but I did not succeed. Sahadeo did not give me a written statement although I asked him for one. The names of Azim and Yassim were never mentioned to me.

I went to Pasea and Spring Village on the Sunday morning in an endeavour to pick up the accused following the description given to me by Mrs. Chotoo. I know where Mrs. Chotoo was before she entered the door of the parade. She was at the Santa Cruz Old Road. Mr. Waterman opened the door as Sgt. Hinds said something and

10

20

30

40

after he spoke Waterman opened the door and she came inside. Before the door was opened I, could not have seen Mrs. Chotoo.

In the High Court

Prosecution Evidence

No.17

By the Jury:

No questions.

Case for the Prosecution.

Ramdeo Bucket informed of his right to lead a defence and of the courses he may adopt.

Carl DeSouza
19th April 1963
Re-examination continued

10 Accused says that he wishes to make an unsworn statement from the dock.

Adjourned to 11.15 a.m.

Resumed at 11.15 a.m.

NO.18

No.18

STATEMENT BY THE ACCUSED

Statement by
the Accused
19th April 1963

STATEMENT FROM THE DOCK BY THE ACCUSED

RAMDEO BUCKET.

20 Your Lordship, Gentlemen of the Jury. I did not shoot this man. Attam, Boysie and Sookwah wound me on 9/6/62 on Bell-Smythe Street some minutes to 8 on that night. The Statement which I had given to Sgt. George and Insp. Carl DeSouza is true. That is all, Sir.

Mr. Sinanan

Mr. Sinanan says that the accused does not desire to call any witnesses.

In the
High Court

NO.19

JUDGE'S NOTES

No.19

Judge's Notes
19th April
1963

Mr. Sinanan addresses:

Commenced at 11.25 a.m.

Ends address at 2.00 p.m.

Adjourned to 9.00 a.m. on Monday 22nd April, 1963.

22nd April
1963

Resumed 22nd April, 1963:

Appearances as before.

9.10 a.m. Mr. Bruno commences address.

Mr. Joseph says that Sinanan will be in Court later, but that he is making an application in the Second Court.

10

9.55 a.m. Mr. Bruno's Address ends.

9.55 a.m. Judge's summing up begins.

11.35 p.m. Judge's summing up ends.

11.39 p.m. Jury Retires.

2.50 p.m. Jury brought into Court upon direction of Trial Judge.

Foreman asked whether jury arrived at verdict.

20

Foreman says that a unanimous verdict not agreed upon.

2.55 p.m. Jury again retires.

4.20 p.m. Jury Returns.

Verdict - Unanimous.

- Guilty.

Allocutus read to the Accused.

Bruno says that he does not know the age of

the accused.

Sinanan says that he believes that the accused is between 20-21 years old.

Bruno says that he has spoken to Inspector DeSouza who has told him that the accused had said that at the time, i.e. 9/6/62, he was 20 years old.

Sentence of Death Pronounced in open Court - the Court being upstanding.

10 Jury Discharged.

In the
High Court

No.19

Judge's Notes
22nd April
1963
continued

NO.20

SUMMING UP

R E G I N A

vs.

RAMDEO BUCKET

No.20

Summing Up
22nd April 1963

SUMMING UP OF THE HON. MR. JUSTICE FRASER
AT THE PORT OF SPAIN ASSIZES ON MONDAY
22ND APRIL, 1963.

MR. FOREMAN, MEMBERS OF THE JURY:

20 Counsel for the Crown in the last sentence of his address exhorted you to let justice be done and I would remind you of what I consider to be the finest definition of justice that I have ever seen; it appears in the First Book of the Institutes of Justinian, who is acknowledged as one of the great law makers of Rome. Justinian's definition of justice is this: "Justice is the constant and perpetual wish to give to each man his due"; and I think that whatever may be our
30 particular duties and our particular interests, it is a definition which is worth remembering because one of the ever-present interests of people must be to do justice not only in Courts of law but in one's everyday life.

In this case, justice will have to be done

In the
High Court

No.20

Summing Up
22nd April 1963
continued

between the Crown and the accused, and in discharging this duty of doing justice both the Crown and the accused must be looked upon by you with the same fairness of vision and the same freedom from prejudice. It may well be that in looking at the Crown's case there is the inescapable realization that a woman has been made a widow, but you cannot allow personal circumstances to affect you; while it might justify a feeling of sympathy in a general and human way, it must have absolutely no effect at all on what you have got to consider today.

10

On Friday you heard a very compact and reasonably brief address by Counsel for the accused presenting the case for the accused in a competent manner. This morning, you have heard a very vigorous address by Counsel for the Crown putting the Crown's case to you, and they both in doing their duty reminded you that you were the judges of the facts of this case. Well, that is quite true. You are the sole judges of the facts and you will have to say what is the truth; and having heard the witnesses, and having heard what the accused has said from the dock, and having heard the statements which he acknowledges he gave to the police, you will have to distil, as it were, the truth in this matter.

20

This is a case which one might say is eminently illustrative of the virtues and the responsibilities of jury trial. Both Counsel for the Crown and the accused have told you that identification of this accused has been by one witness and therefore a great deal would depend upon the manner in which you assess that witness' testimony. But no one can usurp this function of yours. When you come to deliberate on this matter you must be sensible of the very serious responsibility you have of doing justice and of the right which you have of deciding what is the truth. It is my duty to give you directions on the law and you will apply such directions as I give you to the facts as you find them. Any directions which I give you, you will have to accept. So that, if you had any notions of your own as to the legal principles that might apply here, or any ideas that you may have had from time to time - I am not suggesting that you

30

40

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10

have - you will have to discard them and only accept such directions in law as I give you. When you come to apply that law to the facts, you must also be sure that the facts which you find exist in the evidence which has been given in that box. You have to put out of your minds any suggestions which you may have heard as to what happened in any other situation. You are here charged with trying the accused for the murder of a man and I want to tell you at once that you must not concern yourself with the comment that has been made here that some other murder has been committed at some other time. You are charged with the trial of a man for the murder of another. That is your business.

20

I am sure that you will share the feeling which right-thinking human beings must have, that the system of jurisprudence that allows a man charged with crime to be presumed innocent is a system that is worth preserving. Any person charged in a British Court with crime is presumed to be innocent and that presumption of innocence persists throughout the trial, and the burden of removing that presumption is always on the person accusing. The result of this presumption is that an accused person does not have to say anything at all. He does not have to prove his innocence. The law says that you are presumed to be innocent. Well, if you are presumed to be innocent you do not have to prove that. So that, if any one says that you have committed a crime then that person accusing must prove I mention this, as indeed I am in duty bound to do, and I would wish to add that the fact that the accused has not given evidence from the witness box must not be used at all as a factor to his disadvantage. He has a right to say nothing at all. He has the right to make a statement from the dock. He has exercised his right and you cannot adversely criticize a person for exercising his right. So, you must not at all allow your minds to dwell on the fact that he did not give evidence. He did not, but he has a right not to.

30

40

Now, in order to remove this presumption of innocence the Crown has a duty to put before a jury evidence of such a quality that upon hearing it twelve reasonable men could, within their own minds, feel satisfied that the guilt of the accused

In the
High Court

No.20

Summing Up
22nd April 1963
continued

has been established. It is sometimes said that the Crown's duty is to prove the guilt of the accused beyond reasonable doubt. Actually, both things mean the same thing. You must feel sure within your minds having heard that evidence and having decided what is to be believed that the guilt of the accused has been established before you can say the Crown has removed that presumption of innocence; because, if you have some doubt then the Crown will not have discharged its burden. When I say "some doubt" I mean, some reasonable doubt, not a speculative doubt or the kind of doubt that you will indulge in for the purpose of sophistry or idle debate, but a reasonable doubt.

10

The accused has put before you the defence of an alibi. Well, if you believe that the alibi is true, then there can be no question about it you will have to acquit him. If you believe that it might be true, not necessarily that it is; but if you believe that it might be true then again he is entitled to an acquittal. But suppose you feel that the alibi is not true and that it is a fabrication (that is, a lot of lies), that is no reason for saying that the accused is guilty of murder. That process would be wholly wrong, because you must bear in mind that it is not the accused who must prove his innocence. So that, if he told a lie, he is lying, but it does not prove that he has done something. It merely proves that he is a liar. If you do not believe the alibi, you must always realize that it is in the case presented by the Crown that you must search in order to determine the guilt or innocence of the accused; but even if you feel that the statement is not to be believed, that does not resolve anything. Mark you, if you find the accused has not spoken the truth, then you would be entitled to ask yourself, quite reasonably, why has he lied? And you would be able to go through the mental process, if you accept the evidence which the Crown has put forward, of determining why a man has lied if this is the truth as you have found it; and then you can come to such conclusions as you wish, provided you find what is the truth.

20

30

40

I have told you the burden which the Crown

has got to fulfil, and in discharging that burden the Crown has sought to put before you the evidence of many witnesses. But this has not been a long trial and a great deal of what has been said must surely be fresh in your minds. I do not propose to take the evidence of each witness one after the other and mention it to you as they came. I think that would be an intolerable burden for you and you would not be helped by this. What I would prefer to do is to deal with the case in sections as it strikes me merely to facilitate your work of searching for the truth.

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10

20

30

The evidence is that a man named Harry Persad Chotoo who lived at the El Socorro Extension Road with his wife, Sarrajah Chotoo, and his son, Ishlal Chotoo called "Sweeto", was killed on the night of the 9th June, 1962. Dr. Dial, medical practitioner in this country, told you that he saw the dead body of this man, and he gave evidence that on the following day it was identified by Ishlal Chotoo, who has since died, and a post mortem was carried out by Dr. Dial. He has told you that he did a thorough post mortem and that he came to the conclusion that death was due to shock and hemorrhage as a result of injuries to the brain caused by a pellet. He went on to say that it was his opinion that the pellet was from a gunshot and that death resulted from this gunshot.

Well, you have seen a picture of the body lying there, a picture taken on the night of the 9th June, you have heard some evidence as to the firing of a gun; you have heard the policeman say that he picked up bits of the shot and wadding, and you have heard the doctor say what he found to be the cause of death.

40

Now, the question is who killed Harry Persad Chotoo? The Crown says the accused did it and the Crown is asking you to find that the accused did it. They have called a witness, Sarrajah Chotoo, the widow of this deceased man, who gave the most important bit of evidence in seeking to establish that it was the accused who did it. You have seen this woman give her evidence and you will have to make up your minds as

In the
High Court

No.20

Summing Up
22nd April 1963
continued

to whether she is a witness of truth. This is solely your function. You will have to decide whether she is a witness of truth, and even if you do find that she is a witness of truth you have still got to go further because, as you will hear later on, she has identified this accused at an identification parade; and having regard to all the evidence that has been given, you will also have to find, and it is the duty of the Crown to satisfy you, that she did not make an honest mistake. If you find that the witness is a truthful witness, that does not mean, in a case of this kind, that this is an end of the matter. If you find the witness is lying, and you cannot rely on her evidence, that is an end of it. But, if you find she is a witness of truth and she is testifying to a number of things and you can accept her as a truthful witness, then in a case of this kind, you must go one step further. On the evidence of identification of this man you have to be satisfied that she is a truthful person and also that she did not make an honest mistake about his identification. If an honest woman is trying to be truthful all the time, it means that she may be believed that this was the man that she saw. Well, you must be satisfied in addition to finding her truthful that she did not make an honest mistake. You have got to warn yourselves about that.

Now, what is the evidence which this woman, Sarraigah Chotoo, gives? She says that on this night of the 9th June, she was at home with her husband and that between the hours of 7.00 and 7.30 she heard a voice. At that time her husband was sitting at the dining table and she was sitting in a chair in the drawing room. She then went to the window and stood up by the louvred window. You have seen a picture of the house,

She said she stood up by the window when she heard voice call "Sweeto". She has told you that "Sweeto" is the name by which her son is known. She got up and went by the louvre and then she saw that it was the accused who was calling. The accused asked her, "where Sweeto". At that time she observed that he

had his left hand up on his forehead; she demonstrated how she saw it. You will remember the demonstration, but she could not see his right hand. She remembers that he was then wearing a black pants, black jersey and black cap. She says she could see his feet, and at that time there was a 200 watt bulb alight under the eave of the roof outside the house. Well, you have seen the photographs and you have seen where this bulb is. There is some evidence as to the 200 watt bulb being found there and so on. She says this bulb was lighted and she was talking to this man there and she could see him. She told the accused that "Sweeto" was not there. Then he asked her where Sweeto gone.

In the
High Court
No.20
Summing Up
22nd April 1963
continued

Now, you might wish at this stage to recall that some words have been spoken - not one - by the man she says she saw there. First, she heard the name "Sweeto" called, then the person said, "where Sweeto", then she said, "Sweeto is not there", and then he asks, "where Sweeto gone", and then the person (she says it is the accused) goes on to say that he had a message from Barat-
taria, and then she told him if he had a message from Barataria he must move his hand so that she could see his face better. Subsequently, under cross-examination by Mr. Sinanan, she said the words that she did use were not "remove your hand so that I could see you better", but "take your hand from your face and let me see good who the person is". You have heard her say that is what she really said, and in assessing the credibility of this woman you will apply your faculties as intelligent persons and you will have to say whether what she said then is a variation from what she admitted to Counsel so that you can in fact say that she is not speaking the truth, or you will have to say whether the variation is one which really does not make any difference. You will have to apply your minds to that and you will have to consider whether this is the sort of remark which a woman, such as the one you have seen, is likely to make. If she sees a person - she says, "looking up" because she was up by the louvre window and this person was down in the yard - looking up at her, you will have to say whether this is the kind of remark which might come from a woman: "Well move your hand so that I could see good who the person is". She said

10

20

30

40

In the
High Court
No.20
Summing Up
22nd April 1963
continued

that he removed his hand. You might consider that there is some importance about this because if the reason that she wanted him to remove his hand was that she could see good who the person is, and the hand was removed, you will have to determine whether on the removal of that hand she had the opportunity to see good who the person was. You will have to determine whether she did have some opportunity. She says she had. You will have to determine that. But she said that upon his doing so he said, "You want me to move my hand", and from the time he moved his hand he shot at the louveres in her son's bedroom.

10

You must determine whether you can accept this woman's testimony. You will have to bring to bear your experience as Is a person likely to remember a face in those circumstances? Here is a person who is talking to you. There is a light on. You can see the face. According to her, the hand is removed. It is true that the hand is removed almost simultaneously with the shooting, but if what she says is true, she wanted to see good who that person was. So she said, remove your hand. She did not say that she could not see who the person was. She does not say that. She says she wanted to see good who the person was. Is this the behaviour of a cautious person, a person who likes to make sure of things? Because when you come to assess her whole evidence, these are factors which you would think relevant, as for example, asking the Inspector to let the men speak. Is this the behaviour of a person who likes to be sure. Those are all factors which you must weigh.

20

30

A gun is fired and she hears an explosion, and she goes to the louveres of her son's bedroom. Is it likely that a woman being looking on at this in a yard that is lighted by a bright bulb, is she likely to remember the face of a person who has done this? Is it likely or is it unlikely? Is it the kind of thing that would stick in a memory? Is it the kind of occurrence that would make a mark on the mind? Or, is it the kind of thing that might not make an impression? You will have to determine that.

40

She says that she turned around and she did

In the
High Court
 No. 20
 Summing Up
 22nd April 1963
 continued

not see her husband at the table. She moved to go by the kitchen, then she saw her husband in her son's bedroom lying down bleeding. She went up to him. There he was, lying on the floor with injuries to his head and eyes. You have seen the pictures. She says she saw the gun as she heard the explosion. I imagine you will infer from that until this right hand came up to fire she had not seen what it was. She saw the gun after hearing the explosion. Gentlemen, again you will have to apply your commonsense to this, and you will have to decide whether such an occurrence is likely in the ordinary man to make an impression, and if the person to whom she spoke behaved in the way she says he behaved whether she is capable of remembering the person.

She went on, you will remember, to say this: she started to bawl and that the police came. She was taken to the identification parade. I will deal with the identification parade in due course. This is what she went on to say: "I knew the accused before that night of the 9th June. I had known him around three months before. I got to know him when he came to me one day to ask for a man name Sahadeo. The accused came to speak to me at my gap on my bridge. Sahadec is my neighbour who lives opposite to me. That was the first time the accused spoke to me and the second time was the day he shot my husband. I am sure that the accused is the man who spoke to me on the night of the 9th June, 1962. I am sure that the accused is the man who fired the shot that killed my husband".

Counsel for the accused has asked you to say that as this witness had not told this to the police on the other occasions on which she gave written statements, you ought not to accept her identification because this is a circumstance which she would ordinarily have been inclined to report to the police at once when you have regard to the fact that the police officer concerned wanted to get as much information as possible about the man. Broadly speaking, this is the way Counsel has addressed the point to you and you will have to consider that aspect of it. You might also consider another aspect. In your experience you may have found, that the human mind behaves in a very peculiar way and

In the
High Court

No.20

Summing Up
22nd April 1963
continued

sometimes you may not at once remember where it was you first saw a person and in what circumstances, and not until some time after you have seen the person on another occasion that you remember and say 'well you know when I first saw that person it was so and so'. Quite often, you may feel, the human being, upon casting his mind back, recalls facts which, at the time when he may have mentioned them, were not alive in his mind. You will have to apply your minds to that, and in applying your minds you will have to consider, on that night of the 9th of June when she went to the police station, what was likely to be her emotional condition. She is talking to a policeman about the death of her husband who was shot before her eyes, describing the man, and so on. Well, if you feel that it is the normal, human thing to do, to remember at once and say 'well, the man I saw is the same one I saw two or three months ago when he came, and so on'; if you feel that is a reasonable, human thing to do, well, you will have to ask yourselves why didn't she do it? Is it because it never happened? On the other hand, do you feel that the human mind behaves in such a way that it is possible, as she says she did, to describe the man physically and later to recall something else about this man; If you feel that this is something that is quite human and something quite reasonable, then you will have to apply that reasoning to what she says happened. What is perhaps of some relevance is that she has not said that she did not see the man. She has not at all said this at any time, that she did not see the man, and then later on she is saying that she saw him. It is not that she is going against anything that she said before. The contention is that she merely omitted to mention something which is of importance. I do not think that anyone would deny that this bit of evidence is of some importance, where only one witness is identifying a person charged with the offence of murder. The fact that the person had seen that face before could be of some importance because it could possibly have this result: that when on the identification parade the voice was heard, with all these circumstances binding together, it might make an identification quite precise. You see, all these

10

20

30

40

50

In the
High Court

No.20

Summing Up
22nd April 1963
continued

circumstances might well have that result. So that, this is evidence which Counsel for the accused says is important, and you will have to treat it that way; and in considering whether she is to be believed on this you have got the evidence of Insp. De Souza who says that on the next morning he did go to her. You will remember the circumstances under which he was cross-examined. At first, she said (and in fairness to the accused I should mention this), she believed that in her first statement to the police on that night she had mentioned that she had known the accused three months before, and almost immediately after she said she did not tell the police that night that the accused had come to ask for Sahadeo. Then she said she did tell the police that she had known the man three months before; then later she says she did not remember whether she said so in giving the written statement on Sunday; and then, what she finally said was that she did not say this in either of the statements. She accepted Counsel's suggestion that she gave a written statement on Sunday and that she did not therein mention knowing him three months before, and about Sahadeo. But however, she did remember that what she did do was to tell the police officer about it next day when he came to her house.

Here, again, you will have to assess her as you have seen her. Is this a woman who is wilfully wicked (because this would be a wilful and wicked thing if this never happened) seeking to jeopardize the life of this young man? Or, is she a woman who, within her own limitations of her education perhaps and her approach to these things, is giving you her story and trying her best to recall the truth? Is this the impression she has given? Let me say, that in coming to your own views about this, I wish you to remember that Insp. De Souza did tell you that on the following morning he went to her and she had a talk with him and that she gave him certain information, and he has told you what he did having got information from her. Again, you will have to say whether the Inspector impresses you as a responsible police officer who is doing his duty to the best of his ability and is doing justice without fear or favour. Is that the sort of man? If you look at him and you feel he is a

In the
High Court

No.20

Summing up
22nd April 1963
continued

man who is likely to concoct a story to jeopardize this young man's life, well then, it seems to me that he and this widow are embarking on a very vile and foul conspiracy, because he is saying that she did tell him something the next morning. You will apply your minds to that.

Finally then, this woman, Sarraigah Chotoo, says that on Sunday afternoon she went to the police station at San Juan where she identified this man. It is quite true to say that a person can be sufficiently identified by his voice. That is quite possible, and the law acknowledges that possibility. Identification by a voice is not unknown to the law, and in this case the Crown has sought to establish the identification of this man, not only by sight, but by voice also. I should again tell you that she is the only person who is identifying this accused. A great deal would depend upon the way you assess her truthfulness because she is the only witness identifying this man. This is what she says about that identification parade: that she saw a line of men; the policeman asked her to look at the line of men and asked her to repeat the report which was made about the shooting of her husband.

On an identification parade the police must always act with exemplary fairness and it must be so found, because if you find that this identification parade was conducted in any way which leaves the slightest opportunity for the police prompting or showing this woman somebody, then I will direct you that you ought not at all to consider a verdict of guilty if you believe that this identification parade left that opportunity for this woman to be prompted by the police. To make that finding, however, it would seem to me to be rather against the weight of evidence, bearing in mind that it is the evidence which you have to deal with. Counsel did not suggest that it happened, but he quite properly inquired as to what happened on that day and where the woman was. These are perfectly legitimate questions because, in the interests of this accused, it must be established that everything was properly done.

You have had evidence from Insp. Waterman

10

20

30

40

and Insp. De Souza as to how this parade was conducted, and you will have to say whether you are satisfied from their evidence that it was a properly conducted parade. If you are satisfied (and it would be of some importance) from the evidence then you will be quite justified in saying that it was; and then you will have to inquire whether she could not have made an honest mistake in the identification of this man, because as I told you, you must be satisfied about that.

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10

20

30

40

Continuing, she repeated this report of her husband's shooting and she asked each man to say the word "Sweeto". Well, she says that is what she asked the policeman. I think Insp. Waterman's evidence was to the effect that she asked him to ask the men to talk and that having heard what she said about "where Sweeto" that he then provided for the men to say the words "Seeto come". She says, "Sweeto come". Phonetically you will say whether there is any great difference between the two. Inspector Waterman says, "Seeto come". He understood it was "Seeto". She says that it was she who asked the policeman to let the men say "Sweeto". Well, is there much which one could make of this? Does that make either of them a liar? Perhaps. Is this what happened? that she asked the policeman to ask the men to say "Sweeto" and he added of his own volition the word "come"? Which way was it? You will have to make up your minds. She says the policeman asked each one to repeat "Sweeto come". The policeman actually said "Seeto come". Is there any great difference between "Seeto" and "Sweeto"? She said each of the men said this and when the accused repeated the words "Sweeto come" she rushed up and said "This is the man". Then she said to Counsel, she accepted his suggestion, that the words were "Sweeto come" and not "Seeto come". She said that when she repeated the report the men were not very far from her - about five feet away. She said she did not expect to see the man who shot her husband when she went to the parade. It was not correct that she knew that she was going to see the accused. This is what she said: When she got there then she picked him out. In the Magistrate's Court she had said to the Magistrate, and she admits this, "I expected to see the man who shot my husband".

In the
High Court

No.20

Summing Up
22nd April 1963
continued

Then she went on to say that she did not tell the Magistrate "I expected to see the man who shot my husband". Well, you will have to decide whether her denial of what she has said on the deposition - the deposition has been put to her and I am satisfied that it records that those words were used to the Magistrate - is such a matter that makes her a liar. What she says is this: "She did not know when she went on the parade that the police had suspected anyone".

10

That is the evidence of Sarraigh Chotoo. In order to say whether this is evidence which you can accept as truthful, you may wish to look at the evidence of Insp. De Souza and of Insp. Waterman. What De Souza has told you is that he did take a statement from her on that Saturday night at the Station and that he did; after the identification parade on Sunday, have another statement from her; that on Sunday morning he did go to her house when she told him certain things and as a result of that he took certain steps. You will remember what steps he said he took; that it was he who took the accused in to the identification parade and that he remained there.

20

Insp. Waterman has told you that he conducted the parade; that it was done in the station at San Juan. Insp. De Souza said that arrangements were made for this woman to be at Old Road. I take it she was not anywhere in the police station and not looking on at this. You may ask yourselves, why should the police want to put her there when making arrangements? You may feel that the inspectors were making every effort to ensure that the police was fair when conducting an identification parade. You will look at the evidence of these two police officers in considering whether the woman Chotoo is a reliable witness.

30

40

I propose to deal at this stage with the defence because the defence is that of an alibi. What the accused is saying is: "I was not there at all. I know nothing about this. Indeed, I was somewhere else and other things were taking place which involved me at

the time". The accused is saying, "this man was shot but I was not there". The defence is an alibi. As I have told you, if you believe that that is true, then clearly you must acquit him. If you believe that it may be true, again you must acquit him. If you believe that it is all lies, you cannot convict him purely because it is all lies. You must be satisfied that the Crown has established that it was he who killed the man.

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10 In his statement from the dock the accused said that the statements which he gave to Sgt. George and Insp. Carl De Souza are true. As I say, he did not give evidence on oath, but that does not really matter so far as your acceptance or rejection of the statements is concerned. He is saying that the statements in writing which he gave were true. So that, you are bound, and I impress upon you that you are bound to give these statements as careful consideration as you would any evidence given. It is true what he says from the dock is not evidence, but this is a criminal trial and I think you can treat that statement from the dock with the same degree of care as you would the evidence led by the Crown.

30 Look at the statement which, first of all, he gave to Sgt. George, and then to the one he gave to Insp. De Souza, because this is what he says is true. You will remember that the first statement was given on the morning of the 10th June. The first statement was given in writing. This is Sunday morning. You will remember that on Saturday night, this man went to the police station and the policeman did tell you what time he got there. I think it was 8.50 he went to the police station that night and made a complaint that he had been attacked. You can take it that what he was saying on Sunday morning in writing would be largely what he told the policeman on the night, because Sgt. George gave him a Medical Report form to take to the hospital for treatment.

40 These are the circumstances that he talks about. He says: "I live at Spring Village, St. Joseph". (This is the statement to Sgt. George). "About 7.50 p.m." (this is ten to eight) "on the 9th June, 1962, I went to Chin Somming's Rum Shop at the corner of Bushe and

In the
High Court

No.20

Summing Up
22nd April 1963
continued

Belle Smythe Street. I bought a nip of rum, "black label". I left the shop for home walking along Belle Smythe Street. Whilst going I met Sookree, Atam and Boyie. Sookree say give me a drink. At that time I had the rum in my hip pocket. I told him this rum is not for you, I buy this; if you want go and buy. I left him and continued. He, Sookree, then told the others, let's go down boy.

When about 200 yards from Rapsey Street, still on Belle Smythe Street, Sookree again come up and Sookree said, we are going to take you, and pull a stab at me with a knife. I do not know whether it is a penknife or what but it is a knife. I brakes it with my left hand and I got a cut on the left outer forearm. Boyie then said, hold him man, don't cut him yet. Then Atam said, man you is a fool, meaning the other two. Sookree made two more stabs at me. I again brakes it with my left hand and got two more cuts on the said hand. I then ran and come to the police station at St. Joseph and make a report. The three men ran behind me but I got away from them. The police send me to the St. Joseph Hospital. The nurse dressed the cut. I left St. Joseph hospital about 9.30 p.m. and went home to Spring Village at my father's home. I slept there up to this morning, 10.6.62 and left home around 9 a.m. and went to the hospital to see the doctor. I did not meet the doctor. I went at the doctor's home and the doctor examined me, wrote on the paper the police gave me and I come now with it to the police station. I reached home around 10 to 10 p.m. on 9.6.62". In other words, he got home about ten minutes to ten on Saturday night.

You will remember what Dr. Dial said about the wounds which the accused had. Looking at his statement there, you will remember what the doctor said: not only were they superficial wounds but they were parallel to each other on his left lower arm. They might have been self inflicted as well as they might have been caused by a weapon which had three prongs. Well, if that stab wound had been done three times, according to the statement, you will feel he ought to have nine wounds if the instrument had three prongs. But

In the
High Court

No.20

Summing Up
22nd April 1963
continued

those are matters for you. He says that he had 3 wounds. Sookree made one at him and later made two more. Well, you will have to apply your minds to this. But you must bear in mind the evidence of Dr. Dial as to the nature of the injuries. What the Crown is saying is that you should infer that this woman did not make an honest mistake and that she has in fact identified the man she saw on that night. What the Crown is saying is, that if you believe her, you can infer that this man inflicted those wounds on himself in order to hide his guilt, that he was building up an alibi in order to escape detection.

10

That was, you remember, in the morning, Sunday morning he said this. On Sunday afternoon he gave Insp. De Souza another statement.

20

You will remember the Inspector's evidence as to the circumstances under which he gave this statement, and I think the Inspector was pressed and was made to admit that he had never told this man that he was a police Inspector; he had never informed the accused that he had held him on suspicion of murder of Chootoo; that he did not ask the accused to make any statement as to his movements. Well, if that is so, then you may ask yourselves, when the accused was at that police station that afternoon at 3.00 o'clock, having given a statement earlier that day about what had happened during the night before and he was talking to the policeman whose manner does not indicate that he suspects him of anything - it is a matter entirely for you - whether the ordinary person making the kind of report which the accused made that morning would expect that the policeman talking to him that afternoon should be talking to him about the report which he made in the morning? Would this be the sort of ordinary reaction? And if you feel that a reasonable man would be expecting the police to be interested in the report he made, you may ask whether the ordinary man is likely to talk about the report he made or of all the things that he did on that day. Now, this is a matter for you.

30

40

The kind of information which the second statement has is rather different and Counsel did impress upon you that the man had quite

In the
High Court

No.20

Summing Up
22nd April 1963
continued

voluntarily given an account of his movements from 8 a.m. one day to 10.00 o'clock at night. Well, you will have to apply your faculties to it. Is this the kind of thing which a reasonable man would do? He has gone to the police station and told them about three men trying to beat him up and trying to cut him. They send him to the Doctor. He comes back and gives a statement to the police and then they carry him to another police station where he sees an Inspector, not a Sergeant any more but an Inspector. Well, what did he have to say to the Inspector? Is he likely to talk about the report which he made? Is this his interest in being at the police station? And, if it is, is this what he will talk about? Or, is he likely to talk about the things he did the day before? If you feel that this is not what an ordinary man would do, that is, give to the police a whole record of what he did the day before and to give times in some detail, then you may ask yourselves why, without being told he was suspected of any crime, would he want to give such precise information about what he did almost hourly on the day before? You will have to apply your minds to that and say what is the reasonable deduction which should be made.

10

20

However, at 3.00 o'clock in the afternoon Insp. De Souza says this is what he told him: "I live at Spring Village, Curepe at my father and mother home. I have no wife. I am 20 years old. I am not working for the past month. My mother and father feed me. On Saturday 9th June, 1962, I left home about 8.30 a.m. to 9.00 a.m. and went for grass for our cows. I got the grass by the Radio Guardian to the back of it. I came back home about 12 to 1 p.m. I then take my lunch and remained at home. Then about 3 p.m. I went to bathe by a stand pipe at St. Augustine. I came back home about 3.30 p.m. I then change my clothes and went to a Bhagwat which is near to my home. I went back to my home about 5 p.m. I had tea and remained at my home until about 7 p.m. and I went to Curepe junction and I stand up there alone. I walked and went to Chin Soomin grocery. Then about ten to eight I buy a nip of rum and was carrying it home. When I reach a

30

40

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10 little way I open it and I take a drink. I see
a fellow who was around. I called him and gave
him a drink. I don't know his name. He went
his way and I keep on walking. A man name
Suckree, one name Atcm, and Boyie stopped me and
Suckree asked me for a drink. I refused him.
I tell him if you want rum go and buy. I buy
this. I keep on walking. Suckree tell his
friends come go. They left and went in the
dark and when I reach them after Rapsey Street
they all came to me. Suckree say we will take
the rum. He made a stab to cut me with a knife.
I put my left hand and it get cut. Boyie
say you fool hold him. Suckree then give me two
more cuts on my left hand. I run and they run
me and I went to St. Joseph Police Station and
made a report. The police take a statement and
give me a form to carry to the hospital. From
20 the police station I went to St. Joseph hospital
and the nurse dressed me. I reach home about
ten to ten and this morning I went to Dr. Dial
and he saw my hand and he write on the paper and
give it back to me and I carry it at St. Joseph
Station and I gave it to the Sergeant. I know
an Indian man name Shilling. He live some
where in San Juan. We are casual friends. It
is about eight or nine days since I haven't seen
him." "The last time I saw him was somewhere
in the San Juan district...."

30 Now, he goes on to talk about that day, how
he went to the doctor and he went to some girl
friend. The statement was read to you, and so
on; if you want to see it it is there.

40 You will perhaps have realized that in the
statement which he gave in the morning, he says:
"About 7.50 p.m. on the 9th June went to Chin
Sooming's rum shop", and in the statement which
he gave on the afternoon, he said: "I walked
and went to Chin Soomin grocery. Then about
ten to eight..." Well, in one statement it is
7.50 p.m. and in the other one, ten to eight.
Rather precise you might feel, and then again,
you might probably have realized that in the last
sentence of the first statement, he says that he
reached home around 10 to 10 p.m. on 9th June,
and in the statement he gave to Insp. De Souza
he also said: I reach home about 10 to 10".
Well, if you feel that this is the normal thing

In the
High Court

No.20

Summing Up
22nd April 1963
continued

that a man would do - be so precise about time, then there would be nothing wrong with the statement because this would be the kind of statement that a reasonable ordinary man would give, if you feel that he would say what the accused said at the police station in the circumstances in which it is alleged that the accused went there.

The alibi does not really stop there. The accused is saying this. (It was put to Sgt. George and you must take that as part of the statement). 'Indeed, prior to the 9th I had complained about these men. I made a complaint on the 2nd June. That complaint is recorded in the Police Diary. So, there is no question that I manufactured this. The police knew about these complaints a week before June about those three men and myself. So, you cannot say that I have murdered a man and then I made up the story about my movements on this night and so on'. You are therefore entitled to examine this picture. What the Crown says is this: that the accused had imagined mischief and in order to execute it he sought to lay a web of deception which the Crown is asking you to infer from the statement of the accused on the 2nd June. They say, from the evidence led you can reasonably come to that inference.

Now, this entry is in evidence and you have read it and I will remind you of it. It is headed, 2nd June, 1962, and it is noted at 7.50 in the morning. Well, if the 9th is a Saturday, the 2nd would be a Saturday, and this is what is written on that morning:

"Ramdeo Bucket of Spring Village, Curepe, came to the Station and reported that at about 8 p.m. on the 25th May, 1962, five men named Coombs, Bates, Suckree, Boyie Soodoo and Atom, ran me down at Mc Donald Street, Curepe, with a cutlass and stones but did not catch me". He further reported that "three of these men, Boyie, Coombs and Atom, molested me at 5.30 p.m. on the 1st June, 1962, at the corner of McKinroy and Jackson Street, Curepe".

You may feel from the nature of those

10

20

30

40

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10 reports that these five men without evil intentions against the accused just chased him down with cutlasses and stones. He does not say why they did it or anything like that. Clearly, it is just that these men ran him down with cutlasses; and then as to what happened on the 1st June, the report is that three of them molested him. What for, is not mentioned. That is the sum total of the report which was made by him on Saturday 2nd June at 7.50. So that, if you believe that the accused really was chased by these three men, there can be no question about it, that he is entitled to an acquittal. But assuming that you believe that this is not true and that the statements which he gave to the police are not true, the only use you can make of this finding of untruth in him is in examining the evidence for the Crown. If you believe the woman, Sarraigah Chotoo, then ask yourselves, why does this man tell these untruths? Is it not because he wants to hide himself? If you believe Mahadee Ramoutar, Boysie Soodoo and Suckree, then again you are entitled to ask yourselves, why does this man want to paint such a web? Because what the Crown through all these men say is that they knew him; they have seen him; they have never had any dispute with him. This is the sum total of their evidence. I do not propose to go into detail of what each one of them said. That is the sum total of what each one of them said: we never had any quarrel with this man.

20

30

40 Counsel has pointed out to you that the police interviewed these men after the accused had been arrested at the station and after he had been charged, and, I suppose, a not unreasonable inference would be that this is a small community and that these men, by the time the police had interviewed them, would have heard that this man was charged; Counsel poses the question: do you think that in those circumstances these men would admit having chased this man? Well, the evidence is that the policeman told those three men about the report. There really is no evidence that the police told these three men that the accused had been arrested for murder. They were told of the report of an incident on the 9th June. They denied that they had ever been told about any report which had been made on the 2nd

In the
High Court

No.20

Summing Up
22nd April 1963
continued

June and about incidents occurring on the 25th May and on the 1st June. They say that they had never been told about that. They say that the police told them about a complaint on the 9th June. Now, you have to determine whether these witnesses are speaking the truth. You will have to say whether it is a reasonable inference to draw that three men would not admit because they have taken some dislike to the accused on the basis of rum - because the report on the 2nd June does not indicate any reason for the behaviour, but the statement of the 10th June does indicate that what took place on the 9th June was about rum, his buying a nip of rum and they wanting to take it. You will have to say whether three men who want to take rum from him, they do not like him and they want to take it - is it a reasonable deduction that upon a charge of murder, in order to prevent the police from proceeding against them for frightening him with a knife over a nip of rum, that they would come into this witness box and deny that they had ever seen this man or had a quarrel with him? Is this a reasonable deduction? How would a reasonable person in your experience behave? Is it likely for a reasonable person to say, 'Look, if the police ask me about chasing this man I would deny it'? and if my chasing him is evidence that he could not have committed a crime, which they say he did, I would still say no and let an innocent man be placed in jeopardy. Is this the sort of behaviour which, looking at these three men, you think they would indulge in? Well, you must apply your minds to that. Bear in mind the men would be having to face an accusation of conspiracy, because if these three men know that they were having a fracas with this accused at the time when someone was saying he was shooting at another, then that can be no less than a most worthless conspiracy to come here and testify that they had never seen this man at all. One of them goes so far as to say that he was sick and never went out of the house. Would that not be conspiracy in those three men? I do not think you could make any other finding about that if you feel that they are not speaking the truth. There, again, that is a matter for you. And if having looked at them you believe that they

10

20

30

40

50

never had any incident with this man on that night, then you will ask yourselves, if this never occurred then why is this accused saying this? Ask yourselves that question. Why is he saying this? Well, those are all matters, gentlemen, which you will have to consider. The evidence is there and you will have to make up your minds about it.

In the
High Court

—
No.20

Summing Up
22nd April 1963
continued

10 Now, having dealt with both sides of the case, I think I shall direct you on the legal principles in a case of murder. Where a person of sound memory and discretion unlawfully kills any reasonable creature in being and under the Queen's peace with malice aforethought either expressed or implied the death following within a year and a day, such a killing is murder.

20 This definition of murder has several parts and I do not think we would, in a case of this kind, dwell lengthily on the various aspects of it. We can divide it up for easy reference into six sections. The first being, "where a person of sound memory and discretion". The law presumes everyone to be sane. This is another presumption like every accused person is innocent. The law presumes every accused person to be sane; the law presumes every man and woman to be sane. You may have your opinion, quite a personal opinion, as to whether this is a justifiable presumption, but legally this is what the law says: every man is sane. So, unless you have some evidence to show that this man is not sane then you can presume that he is a person of sound memory and discretion, so that the first segment of the definition would be fulfilled. You can presume he was sane.

30

40 "Unlawfully killed": Every unlawful killing is not murder. An unlawful killing may be murder or it may be manslaughter. In this case the question of manslaughter does not arise at all. This is a case of murder, unqualified, unadulterated murder. This is a case of that kind and the killing in this case is an unlawful killing for it cannot be justified by law. A legally justified killing occurs where, perhaps, the killing takes place in war or where officially a man has carried out his duty. Well, that is justifiable killing. Although, perhaps, if a person kills in self-defence, one might say that that is an excuse.

In the
High Court

No.20

Summing Up
22nd April 1963
continued

That does not arise here. So, there is no excuse or justification for the killing which the Crown alleges took place. So you may find that it is an unlawful killing.

"Any reasonable creature in being and under the Queen's peace": Well, the dead man, Harry Persad Chotoo, was such a person. The root of this section of the definition goes far back into antiquity and I do not think it would be a useful exercise to go into why or how this part of it arose. You can however take it as a direction on the law that every person, even an escaped prisoner, is a reasonable person under the Queen's peace and is entitled to the protection of the law. No one has any right to deprive such a person of his life.

10

"With malice afterthought either expressed or implied": "Aforethought" here does not mean premeditation. You do not have to prove that this murder was premeditated in order to establish aforethought nor have you got to prove motive. Express malice does not arise in this case because there is no suggestion that the accused had ever at any time expressed some desire or intention of killing. So that, it would be implied malice. What the Crown is saying is that this is a case of implied malice aforethought. Now, what is implied malice? Where a person, without provocation, and not in self-defence, does an act deliberately and intentionally, an act which is cruel and which is likely to cause death, and in doing that it does in fact cause death, then that act is an act from which malice may be implied. As I say, it may be implied from a deliberate and cruel act committed by one person against another.

20

30

What is the evidence in this case: that the person is alleged to have fired a gun which in its explosion injured Harry Persad Chotoo and the injury to the brain caused his death. Such an act is one which the law treats as capable of implying malice; bearing in mind that you may well find, and I do not think you have any alternative but to find that the act which caused death satisfies that the definition. That is not a finding that the accused

40

did it. Once you are satisfied that the act was a deliberate act, then there was implied malice in it, and you would be quite justified in saying that the deceased was murdered; and I am directing you that there is no other finding that you can make but that the act in this case was deliberately and intentionally performed without provocation.

In the
High Court

No.20

Summing Up
22nd April 1963
continued

10 Finally, "death following within a year and a day": Well, you have got evidence here that the death was almost instantaneous because the man died almost at once. There is the evidence. On the evidence here you have no difficulty in finding that the offence of murder has been committed, because I think that is undoubtedly the legal position there. The important thing is, you will have to say whether it was the accused who did it.

20 His Lordship: Mr. Bruno, Mr. Sinanan: Is there any other aspect of this matter which you would like me to deal with?

Mr. Bruno: No, my Lord.

30 Mr. Sinanan: There are two aspects I would like to draw Your Lordship's attention to. It is respectfully submitted that the jury should be clearly directed on this question: that at the identification parade this woman failed to pick out the accused when asked to do so by Waterman when Waterman said to look along the line and she looked along the line and she had the opportunity of seeing him for four or five minutes, according to Waterman. That indicates grave doubt in her mind because she was there four to five minutes.

His Lordship: I have already dealt fully with this aspect of it in my directions, I think.

Mr. Sinanan: It is a most important factor to be considered.

40 The other point is on the authority of Rex v Phillips. Your Lordship is entitled to draw the jury's attention to the weakness of the case where identification is important.

His Lordship: The facts in this case are not

In the
High Court

No.20

Summing Up
22nd April 1963
continued

anything like those in Phillips.

Mr. Sinanan: The question is, whether when she asked at this stage to hear them talk after four to five minutes in the room, whether that could be interpreted to be in a state of doubt. I want to stress this aspect of Phillips because I think earlier you did tell the jury that the identification is only upon her evidence alone.

His Lordship: I would not have thought Phillips applicable here because I think the Lord Chief Justice there made it quite clear that it was a decision on the facts of that case. At any rate perhaps I can dispose of this aspect.

10

Gentlemen,

Counsel has asked me, and I think quite properly, to draw your attention to the fact that the witness had, before identifying the man, asked the police to let them speak. Well, the evidence about this is that one witness, said that from the time she entered the room to the time that she collared the accused, four to five minutes elapsed. The other witness said he thought it was not more than a minute and a half, and what both of them said, whether it was four to five minutes or a minute and a half, was that on coming into the room she was asked by the police to relate what took place and she related what took place and that having done so she looked along the line and asked the policeman to ask the men to talk and the men talked and then she collared the accused.

20

30

Counsel has urged upon you that you may feel that her wanting them to speak indicated uncertainty. This is the view Counsel is impressing upon you, but you may feel that is not the only view you may take of it. You may feel that that is one view, but looking at the person you may feel that this is what a cautious person might do. But this is eminently a matter for you if you feel that from the evidence of what took place in that room that this was a woman who clearly did not know the man at all; and was at a loss when she saw the men

40

there, and out of desperation she said 'You had better let them speak' and then, quite mistakenly, goes and picks out the accused. If you believe that is what happened there is no doubt as to what your duty must be. If, on the other hand, you feel she is not mistaken and that she was merely being cautious, well then you would know how to apply that view.

In the
High Court

—
No.20

Summing Up
22nd April 1963
continued

10 Mr. Sinanan: I had meant to mention this to Your Lordship before: about this statement that she is alleged to have made, 'He killed my husband', as to whether that constitutes evidence against the accused or not, and the accused said nothing.

20 His Lordship: Well, gentlemen, it is stated that when the woman said this, the accused said nothing. That was evidence of fact which the woman gave and which the Inspector gave. There is no suggestion that he did say anything, and the question is whether you ought to come to any conclusion as a result of this. Now, it is perfectly correct to say that a man is not obligated to make a statement if he is accused of a crime. This is perfectly sound. If I go to a man and say, 'you stole my chickens' and he says nothing in a situation in which he may be expected to say something, then I can comment quite adversely about the fact that he said nothing.

30 But, when a man is at a police station and on an identification parade and an accusation is made and he says nothing, that is not a situation in which one could be said to be expected to say something. So the fact that he says nothing must not be used by you as finding that he is guilty. No. It is true that he said nothing, but you can make no finding at all as a result of that. Any findings which you make must be upon other evidence and remembering the identification of that woman, Sarraigah Chotoo.

40 You have seen her and you will have to say whether she has impressed you as a woman who is careful and whether she is a woman who was doing her best to speak the truth and whether what Insp. De Souza said of her identification is to be accepted.

Now, Mr. Foreman, Members of the Jury: I have on previous occasions reminded the jury

In the
High Court

No.20

Summing Up
22nd April 1963
continued

that in assessing the truth one must apply his mental faculties. Conscience, as I have said, and it could bear repetition, is the judgment of one's intellect, and if the actions and objects of the intellect are right then your consciences will certainly direct you on the right path. You must bear in mind that in a case of this kind the only actions, the only objects of your intellect must be to find the truth. The jury has a very serious responsibility to perform, but it is a responsibility that stands ever foremost in the preservation of the liberty of the individual. In performing this duty you cannot allow sympathy for the widow or sympathy for the accused to move you, nor can you allow prejudice to affect you, and it is no use saying, 'oh, none of us is prejudiced'. Human beings seem to be affected in one form or another by instinctive preferences. Some people call it prejudice and it is amazing how in this pursuit of the truth human failings tend to struggle within ourselves when we come to assess a person, and I think you should make a conscious effort to let all personal feelings leave you. It is not easy, but you must do it, because you are doing justice and you owe it to the accused to do justice. You owe it also to the Crown to do justice. If indeed you are not satisfied that the guilt of this man has been established, then however unfortunate the whole incident may be and what people may have suffered by it, you have got to acquit the accused. The Crown will not have discharged its duty. If, on the other hand, as judges of the facts, you feel satisfied with the evidence, you feel sure in your minds that the guilt of this man has been established, then your clear duty would be to convict him.

10

20

30

Mr. Foreman, members of the jury, I must ask you to consider your verdict.

40

JURY RETIRED.

No.21

Verdict and
Sentence
22nd April 1963

NO. 21

VERDICT AND SENTENCE

JURY RETURNS:

After the Clerk of the Court had asked

whether they had arrived at a unanimous decision, the foreman of the jury said that they had not.

In the
High Court

His Lordship: On the assumption that it is reasonably probable that you would arrive at a verdict, I propose to ask you to retire again.

No.21

Verdict and
Sentence
22nd April 1963
continued

10 In performing the functions of a jury, it is not reasonable for a juror to take a stand one way or the other and refuse to listen to reasonable discussion. That is not how a juror's function must be performed. There must be give and take in the discussion and there must be a willingness to accept reason. I am quite sure that if all twelve gentlemen of the jury remember that this is the way they must approach their work you ought, quite reasonably, to arrive at a verdict one way or the other. I must therefore ask you to retire again.

JURY RETIRED AND RETURNED A VERDICT
OF GUILTY.

20 His Lordship to Crown Counsel: What is the age of the accused?

Crown Counsel: Between 20 and 21, My Lord. I have not got his birth certificate but I am informed by Insp. De Couza that at the time of the incident the accused told him that he was 20 years of age.

HIS LORDSHIP THEN PASSED SENTENCE OF
DEATH ON THE ACCUSED.

30 NO.22
COURT MINUTE
TRINIDAD AND TOBAGO
IN THE SUPREME COURT OF TRINIDAD & TOBAGO
No.53 of 1963

No.22
Court Minute
22nd April
1963

PRESENT:- The Honourable Mr. Justice Fraser
On the 17th, 18th, 19th and 22nd
days of April, 1963.

OUR SOVEREIGN LADY THE QUEEN
AGAINST
RAMDEO BUCKET
for
M U R D E R

40 Mr. Winzey Bruno for the Crown

In the
High Court

No.22
Court Minute
22nd April 1963
continued

Mr. Mitra Sinanan and Mr. H.R. Joseph of
Counsel for the accused.

The Cause was called on - the accused was placed at the Bar - the Act of Indictment was read aloud by the Registrar, to which the accused pleaded not guilty - Mr. Winzey Bruno joined issue for the Crown - the following Jurors were called and sworn :- Ronald O'Brien, Ivan Lee, Herbert Archer, Waldrop Phillip, Theophil Joseph, Deo Gunness, Percy Lall, Francis Valadere, Boysie Smith-Bovell, Irvin Borel, William Thomas, Mohammed Salim. 10

Ronald O'Brien was elected Foreman.

Mr. Winzey Bruno stated the Case for the Prosecution, and in support thereof called the following Witnesses:- Sarraijah Chotoo, Dr. Inderjit Dial, Cpl. Oscar Deane; Cpl. George McDonald Phillip; Insp. Gordon Waterman; Sgt. Johnson George; Insp. Wynfield Hinds; George Kalloo; Chin Sue Ming; Mahadeo Ramoutar; Sonnyboy Sookwah; Boysie Soodoo; Insp. Carl DeSouza. 20

CASE FOR THE CROWN CLOSED.

The Accused when informed of the three (3) courses of defence open to him made an unsworn statement and called no witnesses.

CASE FOR THE DEFENCE CLOSED

Mr. Sinanan was heard on behalf of the Accused.
Mr. Bruno replied on behalf of the Prosecution.

His Lordship the Judge then summed up the evidence and stated the case to the Jury, whereupon the Jury returned a verdict of Guilty, of Murder, after being in retirement from 11.39 a.m. to 2.51 p.m., and from 2.55 p.m. to 4.25 p.m. 30

The prisoner having been called upon by the Registrar to state if he had anything to offer why Judgment should not be awarded against him declared he had not.

His Lordship then pronounced the following sentence: 40

That the said Ramdeo Bucket for his said offence do suffer the penalty of death by hanging.

George R. Benny
Ag. Deputy Registrar.

NO.23

In the Court
of Appeal

GROUNDS OF APPEAL

No. 23

TRINIDAD & TOBAGO:

IN THE COURT OF APPEAL

Grounds of
Appeal

REGINA

Vs

RAMDEO BUCKET

for MURDER.

GROUNDS OF APPEAL

10 MISDIRECTION.

1. That the learned trial Judge misdirected the Jury on the question of murder.

(a) "In this case the question of manslaughter does not arise at all. This is a case of murder, unqualified, unadulterated murder. This is a case of that kind and the killing in this case is unlawful killing for it cannot be justified by law". (Summing-up Page 57 ll.37-42)

20 (b) "What is the evidence in this case: that the person is alleged to have fired a gun which in its explosion injured Harry Persad Chotoo and the injury to the brain caused his death. Such an act is one which the law treats as capable of implying malice; bearing in mind that you may well find, and I do not think you have any alternative but to find that the act which caused death satisfies that definition. That is not a finding that
30 the accused did it. Once you are satisfied that the act was a deliberate act, then there was implied malice in it, and you would be quite justified in saying that the deceased was murdered; and I am directing you that there is no other finding that you can make but that the act in this case was deliberately and intentionally performed without provocation."
40 (Summing-Up Page 58 l.38 to p.59 l.8).

In the Court
of Appeal

No. 23

Grounds of
Appeal
continued

(c) "Now, what is implied malice? Where a person, without provocation and not in self-defence, does an act deliberately and intentionally, an act which is cruel and which is likely to cause death, and in doing that it does in fact cause death, then that act is an act from which malice may be implied. As I say, it may be implied from a deliberate and cruel act committed by one person against another." (Summing-Up Page 58 ll.28-37). 10

2. That the learned trial Judge misdirected the Jury on the question of identification.

(a) On page 43 l.46 to p.44 l.14 of the Summing-Up the learned Judge said:

"In your experience you may have found, that the human mind behaves in a very peculiar way and sometimes you may not at once remember where it was you first saw a person and in what circumstances, and not until some time after you have seen the person on another occasion that you remember and say 'well you know when I first saw that person it was so and so'. Quite often, you may feel, the human being, upon casting his mind back, recalls facts, which, at the time when he may have mentioned them, were not alive in his mind. You will have to apply your minds to that, and in applying your minds you will have to consider, on that night of the 9th of June when she went to the police station, what was likely to be her emotional condition". 20 30

(b) "Here, again, you will have to assess her as you have seen her. Is this a woman who is wilfully wicked (because this would be a wilful and wicked thing if this never happened) seeking to jeopardize the life of this young man? Or, is she a woman who, within her own limitations of her education perhaps and her approach to these things, is giving you her story and trying her best to recall the truth? Is this the impression 40

she has given? Let me say, that in coming to your own views about this, I wish you to remember that Insp. DeSouza did tell you that on the following morning he went to her and she had a talk with him and that she gave him certain information, and he has told you what he did having got information from her. Again, you will have to say whether the Inspector impresses you as a responsible police officer who is doing his duty to the best of his ability and is doing justice without fear or favour. Is that the sort of man? If you look at him and you feel he is a man who is likely to concoct a story to jeopardize this young man's life, well then, it seems to me that he and this widow are embarking on a very vile and foul conspiracy, because he is saying that she did tell him something the next morning. You will apply your minds to that. (Summing-up Page 45 l.29 to p.46 l.7).

- (c) "She said she did not expect to see the man who shot her husband when she went to the parade. It was not correct that she knew that she was going to see the accused. This is what she said: When she got there then she picked him out. In the Magistrate's Court she had said to the Magistrate, and she admits this, "I expected to see the man who shot my husband". Then she went on to say that she did not tell the Magistrate "I expected to see the man who shot my husband". Well, you will have to decide whether her denial of what she has said on the deposition - the deposition has been put to her and I am satisfied that it records that those words were used to the Magistrate - is such a matter that makes her a liar. What she says is this: "She did not know when she went on the parade that the police had suspected anyone".

That is the evidence of Sarraigah Chotoo. In order to say whether this is evidence which you can accept as truthful, you may wish to look at the evidence of Insp. De Souza and of Insp. Waterman. What De Souza has told you is that he did take a statement from her on that Saturday night

In the Court
of Appeal

No. 23

Grounds of
Appeal
continued

10

20

30

40

50

In the Court
of Appeal

No. 23

Grounds of
Appeal
continued

at the Station and that he did, after the identification parade on Sunday, have another statement from her; that on Sunday morning he did go to her house when she told him certain things and as a result of that he took certain steps. You will remember what steps he said he took; that it was he who took the accused in to the identification parade and that he remained there". 10
(Summing-up Page 47 l.42 to p.48 l.11).

(d) "You will look at the evidence of these two police officers in considering whether the woman Chotoo is a reliable witness". (Summing-up Page 48 l.38).

3. That the direction given by the learned trial Judge in directing the Jury to retire again at the expiration of three hours from the moment of their first retirement amounted to a grave misdirection. 20

"On the assumption that it is reasonably probable that you would arrive at a verdict, I propose to ask you to retire again.

In performing the functions of a jury, it is not reasonable for a juror to take a stand one way or the other and refuse to listen to reasonable discussion. That is not how a juror's function must be performed. There must be give and take in the discussion and there must be a willingness to accept reason. I am quite sure that if all twelve gentlemen of the jury remember that this is the way they must approach their work you ought, quite reasonably, to arrive at a verdict one way or the other. I must therefore ask you to retire again". (Summing-up Page 63 l.3-17). 30

Mitra G. Sinanan
Counsel for Appellant. 40

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

NO.24

ADDITIONAL GROUND OF APPEAL

TRINIDAD AND TOBAGO

IN THE COURT OF APPEAL

R E G I N A

Vs

RAMDEO BUCKET

for

M U R D E R

In the Court
of Appeal

No. 24

Additional
Ground of
Appeal

10

ADDITIONAL GROUND OF APPEAL.

- 4. That the learned trial Judge failed to give the Jury a proper direction as to the intent which has to be proved in order to constitute the necessary ingredient of malice.

Mitra G. Sinanan

Counsel for Appellant.

The Registrar,
The Court of Appeal
Trinidad House
Port-of-Spain.

20

NO.25

J U D G M E N T

No.25

Judgment
14th June 1963

C.C.A.

14th June, 1963.

Coram: Sir Hugh Wooding, C.J.
I.E.Hyatali, J.
C.E.Phillips, J.

No.37 of 1963.

Ramdeo Bucket v Regina.

30

Judgment delivered by the Chief Justice:

Substantially, two grounds of appeal have been submitted on behalf of the Appellant who has appealed against his conviction

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

for murder and the consequent sentence of death. The first is in relation to the judge's direction to the jury on the question of murder, to wit, that -

".....In this case the question of manslaughter does not arise at all. This is a case of murder, unqualified, unadulterated murder. This is a case of that kind, and the killing in this case is unlawful killing for it cannot be justified by law."

10

There are other passages in the summing up to which reference has been made which merely amplify and expand that statement that the question of manslaughter does not arise at all. It is quite clear from the whole of the summing up that the learned trial judge did not think it necessary to explain to the jury all the requirements in law to distinguish murder from manslaughter. He took the view that this was a case of a deliberate act having been done the only natural and probable result of which would be that death or grievous bodily harm was likely to ensue and, accordingly, that the case was one in which he should direct the jury that if they accepted the prosecution's case the issue was one of murder and murder only.

20

Although it may be said that in the generality of cases a judge ought properly to state to the jury what the law is distinguishing murder from manslaughter and, although in the generality of the cases he ought - indeed, he must - where there is any evidence to that effect to leave it to the jury to consider on the evidence whether a manslaughter verdict may be returned, nevertheless, if the acts are such as to make it clear that no reasonable jury could possibly come to the conclusion that the crime was one of manslaughter rather than murder, the view we take is that it is not necessary for him to do more than to tell the jury briefly what has to be proved on a charge of murder, to go on to say what the circumstances of the case as put forward by the prosecution are, and to direct them that, if they accept the prosecution's case as having been

30

40

proved, it is one of murder. We would call attention in this connection to the case of Mc Pherson 41 CAR 213 in which the appellant had been charged and convicted of murder and in his defence he had raised the question of provocation. The learned judge at the trial left the question of provocation to the jury and, therefore, left to them the possibility of finding the accused guilty of manslaughter. In so doing he unfortunately misdirected the jury. The jury convicted of murder and the matter went before the Court of Criminal Appeal. The Lord Chief Justice had this to say:

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

10

20

30

40

"The case against the appellant was shortly this: He is a Jamaican living with his sister in Nottingham. The dead man was also a Jamaican and seems to have been a man of bad character and somewhat violent and a bully. He also seems from time to time to have endeavoured to pay unwelcome attentions to the appellant's sister. The appellant said, and very likely it may be true, that he went in some fear of this man. He seems to have bought a single-barrel shotgun, and on the day before the shooting which led to the deceased man's death the appellant sawed off the barrel and he took out that dreadful weapon on April 10, concealed under his coat. The dead man came along on a bicycle and undoubtedly shouted out some provocative words to the appellant, and seems to have ridden off on his bicycle as if pursuing the sister. The sister did call out: "He is here," and thereupon the appellant produced the shotgun and fired four shots at close range at the dead man. He fired first when the dead man was standing by his bicycle, and may have fired two shots then, and the evidence is that he went up and fired two more shots into the dead man's body."

The Lord Chief Justice went on to say that the trial judge had approached the case with the usual care that he always displayed in such matters, that he had directed the jury on provocation, had gone through the evidence with meticulous care and, if he had held that there was

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

no ground for leaving manslaughter to the Jury, that the Court of Criminal Appeal would not have interfered. He then added:

"How can it be said that the appellant was acting in a gust of passion when he fired not one shot but four shots, and each shot involved the breaking of the gun to reload it and the taking out of cartridges four separate times? Greater deliberation can hardly be imagined. He had taken the gun out obviously with the purpose of firing at the dead man. He said he only intended to frighten him. Why, then, did he have it loaded? If the gun was intended to frighten, the production of the gun would achieve that object. Further, he said that he deliberately fired low. That does not show that the provocation had such an effect on the appellant's mind as to deprive him temporarily of his reason or his self-control. He controlled himself enough, so he says, to fire at the man's legs. In all the circumstances, this Court finds it exceedingly difficult to say that there was evidence of provocation at all sufficient to satisfy the law on that subject; but, in the exercise of his discretion, the learned judge did leave the question of manslaughter to the jury, and, therefore, the issue having been once left to the jury, one has to see that the jury were properly directed."

10

20

30

This case clearly shows that, if in the judgment of the trial judge the evidence is such as not to justify leaving a charge of manslaughter to the jury, then, he is not required to go into any detailed direction showing the difference between murder and manslaughter, but, of course, the trial judge would have to be most careful in coming to the conclusion that it is a case in which manslaughter should not be left to the jury because, if he is wrong on that at all, then, naturally, this court would have to set the matter right.

40

Now, what is the position in this case?

What are the facts? Here the appellant went to the home of the deceased with a loaded shotgun which at the beginning he had concealed. He called out and, in answer to his call, the wife of the deceased looked through the louvred windows of the drawing room of the house and spoke to the appellant from there. It is a high house, standing on pillars some feet off the ground. Having spoken to him there, and he having been told by the wife of the dead man that her son was not at home, he said he wished to leave a message for him. At that time he had his face partly hidden by his left hand being held over his eyes and, accordingly, the deceased's wife asked that he should remove his hand from his eyes so that she might see more clearly who it was who was seeking to have her deliver this message. As he did so he also raised his right hand, in which apparently the gun was being held, and shot at the louvred windows of a bedroom of the house, this particular bedroom being more or less at right angles to the far end of the drawing room through the louvred windows on the side of which the wife of the deceased was speaking. The appellant having shot at the louvred windows of this bedroom, the deceased, who happened to be in that room at that moment of time, got a pellet into his brain which killed him there and then. Death was instantaneous. The question that arises on this matter is whether in those circumstances a verdict of manslaughter was at all possible.

In the view we take, this is not a case where there can be any question of seeking to frighten the wife of the deceased man at all. What purpose there would be in seeking to frighten her is not discoverable from the evidence since she was making a simple inquiry in answer to his request that she deliver a message to her son when he came in. Her inquiry was solely to ascertain who the person was who was seeking to deliver this message. There was nothing to provoke or to excite a desire to frighten or anything of that kind. Also, as I have said, the gun had been previously loaded. Further, the house, as I have said, stands some distance off the ground which means that this loaded gun was deliberately pointed at the louvred windows of this bedroom and indicates clearly the desire on the part of

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

10

20

30

40

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

the appellant to shoot, at least, at and through that window. Now the significance is that that window was a window to a bedroom, and it happened also to be the bedroom of the son for whom he was asking. This incident happened moreover at night, between 7 and 7.30 on what is said to have been a dark night, although there were very bright lights outside the house which enabled this woman to see who the man was as he removed his left hand from covering his face. In these circumstances, it seems impossible to come to any conclusion but that the reasonable and normal human being, if he thought about the matter at all, would have considered that the natural and probable result of shooting at the bedroom window with its louvres would be the likelihood of causing death to some person who was or might be expected to be in that room at the time. We would point out also, although this must not be taken to be the ground on which we base our decision, that the husband of the woman who had been speaking to this man had been in the dining room at the time when the conversation began and must, therefore, have moved from the dining room to the bedroom almost immediately before the gun was fired. It may very well be and, indeed, it is most likely that the jury would have come to the conclusion if they had been asked to consider the point specifically, that the man outside saw that somebody had entered the bedroom and consequently shot at him. But, as I say, we do not wish to base our decision on that ground because there is no evidence that he did see the person enter the room. It is merely an inference which it was open to the jury to draw. But we do say that when a man with a loaded gun shoots at the louvred windows of a bedroom in a dwelling house at night, at a time when it was reasonable to expect that there would be somebody in that bedroom, then there can be no question whatever, if somebody there gets shot as a result, that it is a case of murder rather than of manslaughter. That being so, we hold it was not necessary for the trial judge to go into the distinction between murder and manslaughter.

10

20

30

40

In this connection we would call attention to what was said in the case of Smith (1961) A.C. 290, at p.331. The Lord Chancellor said:

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

"Another criticism of the summing-up and one which found favour in the Court of Criminal Appeal concerned the manner in which the trial judge dealt with the presumption that a man intends the natural and probable consequences of his acts. I will cite the passage again: The intention with which a man did something can usually be determined by a jury only by inference from the surrounding circumstances including the presumption of law that a man intends the natural and probable consequences of his acts. It is said that the reference to this being a presumption of law without explaining that it was rebuttable amounted to a misdirection. Whether the presumption is one of law or of fact or, as has been said, of common sense, matters not for this purpose. The real question is whether the jury should have been told that it was rebuttable. In truth, however, as I see it, this is merely another way of applying the test of the reasonable man. Provided that the presumption is applied, once the accused's knowledge of the circumstances and the nature of his acts has been ascertained, the only thing that could rebut the presumption would be proof of incapacity to form an intent, insanity or diminished responsibility."

Now in the present case before us here the circumstances and the nature of the appellant's acts were these: that he went to these premises with this loaded gun and there is nothing whatever to suggest that when he fired that gun he was seeking to frighten anybody; that he pointed it at the louvred windows of a dwelling house at night - not merely of a dwelling house but of a bedroom in the dwelling house - and, therefore, the common-sense presumption, as we see it, is that he would have considered, looking at the matter objectively as the ordinary

In the Court
of Appeal

No.25

Judgment
14th June 1963
continued

normal and reasonable man, that the natural and probable result of so doing was that somebody in that bedroom would have been killed or grievously harmed.

I turn next to the other point - the other ground of appeal. The second ground of appeal is that, when the jury returned after three hours not agreed upon their verdict, the learned trial judge proceeded to direct them again as follows:

10

"On the assumption that it is reasonably probable that you would arrive at a verdict, I propose to ask you to retire again. In performing the functions of a jury, it is not reasonable for a juror to take a stand one way or the other and refuse to listen to reasonable discussion. That is not how a juror's function must be performed. There must be give and take in the discussion and there must be a willingness to accept reason. I am quite sure that if all twelve gentlemen of the jury remember that this is the way they must approach their work you ought, quite reasonably, to arrive at a verdict one way or the other. I must, therefore, ask you to retire again."

20

In our view, the case of Shoukatallie which went to the Privy Council from British Guiana covers this particular point. It is reported at (1961) 4 W.I.R. 111. Lord Denning, who delivered the opinion of the Board, said this at page 116 :

30

"It is every day practice for a judge thus to exhort a jury to reach a verdict. There is nothing wrong in it; indeed, it may be very proper he should do so, as long as he does not use phrases which import a measure of coercion such as was held to have been exerted in R. v Mills. The question in this case is whether the judge went beyond exhortation which is permissible, and exerted some measure of coercion which is not."

40

In the Privy
Council

No.26

Order Granting
Special Leave
to Appeal in
forma pauperis
23rd October
1963
continued

Majesty Respondent setting forth that the Petitioner desires to obtain special leave to appeal in forma pauperis to Your Majesty in Council from a decision of the Court of Appeal of Trinidad and Tobago dated the 14th day of June 1963 dismissing his Appeal against a conviction of murder and sentence of death in the High Court of Justice Port of Spain Assizes on the 22nd day of April 1963: And humbly praying Your Majesty in Council to grant him special leave to appeal in forma pauperis to Your Majesty in Council from the decision of the Court of Appeal of Trinidad and Tobago dated the 14th day of June 1963 and for further or other relief:

10

"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 Petitioner to enter and prosecute his Appeal against the decision of the Court of Appeal of Trinidad and Tobago dated the 14th day of June 1963:

20

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

30

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.

40

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

W. G. AGNEW.

E X H I B I T SExhibitsExhibit J.G. 1.

J.G.1.

STATEMENT OF ACCUSEDStatement
of Accused
30th July
1962/s/ S.S. McGregor
Magistrate Trinidad & Tobago.

30/7/62.

St. Joseph Station,
10.6.62.RAMDEO BUCKET, states:

10 I am a labourer. I live at Spring Village,
St. Joseph. About 7.50 p.m. on 9.6.62 I went at
Chin Sooming Rum Shop at the corner of Bushe and
Bell Smythe Streets. I bought a nip of rum
"Black Label". I left the shop for home walking
along Belle Smythe Street. Whilst going I met
Sookree, Atam, and Boyie Sookree say give me a
drink, at that time I had the rum in hip pocket,
I told him this rum is not for you, I buy this,
if you want go and buy. I left him and continu-
20 ed, he Sookree then told the others let go down
boy, when about 200 yards from Rapsey Street
(still on Belle Smythe St.,) Sookree again come
up and say now we are going to take it, he then
pelt a stab at me with a knife, I do not know
whether it is a pen knife or what but it is knife.
I brakes it with my left hand and I got a cut on
the left-outer forearm. Boyie then said hold
him man, don't cut him yet. Then Atam said, man
you is a fool meaning the other two, Sookree made
30 two more stabs at me. I again brakes it with my
left hand and got two more cuts on the said hand,
I then ran and come to the Police Station in St.
Joseph and make a report, the three men run be-
hind me but I got away from them. The Police
send me to the St. Joseph Hospital, the nurse
dressed the cut. I left the St. Joseph Hospital
about 9.30 p.m. and went home Spring Village at
my father's home, I slept there up to this morn-
40 ing 10.6.62 and left home around 9 a.m. and went
to the Hospital to see the Dr. I did not meet
the Dr. I went at the Drs. home and the Dr.
examined me, wrote on the paper the police gave
me and I come now with it to the Police Station.

Exhibits

I reached home around 10 to 10 on 9.6.62.

J.G. 1.

/s/ Ramdeo Bucket

10/6/62.

Statement
of Accused
30th July
1962
continued

I hereby certify that I took this state-
ment from Ramdeo Bucket at St. Joseph Police
Station at 12 noon on the 10.6.62. I read
it over to him he said it was correct and
signed.

/s/ J. George, Sgt.

10.6.62.

10

C.De S.1.

Exhibit C.De S.1.

Statement
of Accused
10th August
1962.

STATEMENT OF ACCUSED

/s/ S.S. McGregor,
Magistrate, Trinidad and Tobago.

10/8/62.

San Juan Police Station,
10-8-62.

RAMDEO BUCKET states:

I am a labourer working with the St. George
County Council and live at Spring Village,
Curepe at my father and mother home, I have no
wife, I am twenty years old, I am not working
for the past month. My mother and father feed
me. On Saturday, 9th June, 1962, I left home
about 8.30 a.m. to 9 a.m. and went for grass
for our cows. I got the grass by the Radio
Guardian to the back of it. I came back home
about 12 to 1 p.m. I then take my lunch and
remained at home. Then about 3 p.m. I went to
bathe by a stand pipe at St. Augustine I came
back home about 3.30 p.m. I then change my
clothes and went to a Bhafwat which is near by
my home I went back to my home about 5 p.m.
I had tea and remained at home until about
7 p.m. and I went to Curepe Junction and I
stand up there alone. I then leave Curepe
Junction about twenty to eight alone. I walk-
ed and went to Chin Soomin Grocery then about

20

30

ten to eight I buy a nip of rum and was carrying
 it home when I reach a little way I open it and
 I take a drink. I see a fellow who was around
 I called him and gave him a drink I don't know
 his name. He went his way and I keep on walk-
 ing, a man name Suchrea, one name Atam and
 Boysie stopped me and Suchrea asked me for a
 drink. I refused him. I tell him if you want
 rum go and buy. I buy this, I keep on walking.
 10 Suchrea tell his friends come go, they left and
 went in the dark and when I reach them after
 Rapsey Street they all come to me, Suchrea say
 we will take the rum, he made a stab to cut me
 with a knife I put my left hand and it got cut.
 Boysie say you fool hold him, Suchrea then give
 me two more cuts on my left hand. I run and
 they run me and I went to St. Joseph Police
 Station and made a report. The Police take a
 statement and give me a form to carry to the
 20 Hospital. From the Police Station I went to St.
 Joseph Hospital and the nurse dressed me. I
 reach home about ten to ten, and this morning I
 went to Dr. Dial and he saw my hand and he write
 on the paper and give it back to me and I carry
 it at St. Joseph Police Station and I gave it to
 the Sergeant. I know an Indian man name Shill-
 ing, he live some where in San Juan. We are
 casual friends. It is about eight or nine days
 since I haven't seen him. The last time I saw
 30 him was some where in the San Juan district.
 Shilling has never come to my home, I did not
 come to San Juan at any time during yesterday or
 last night which was Saturday, 9th June. My
 Grandmother, Soobagiah lives on Bell Smythe
 Street, I went by her home on the Road this morn-
 ing 10/6/62. I did not go in her house. I did
 not speak to her. I have a cousin name Edward
 Sookwah he is living at El Socorro Road near
 Sundas Trace, the last time I saw him was on
 40 Friday night gone we drank together by Twarie
 Bar. Today, Sunday 10/6/62, I left my home
 some minutes after 8 a.m. and I went to San Juan
 to meet a girl friend I don't know her name we
 only met yesterday for the first time. I did
 not see her, I then went to El Socorro I met a
 friend name John and we both talk and some of the
 boys talked also, from there I went back on the
 Main Road. I take a taxi and went to St.
 Joseph Hospital, then I went to Dr. Dial House
 50 he treat me for the cut I got last night and from

Exhibits

C.D. S.1.

Statement
 of Accused
 10th August
 1962
 continued

Exhibits

C.De S.l.

there I went to St. Joseph Police Station
and the Police then bring me to San Juan
Police Station.

Statement
of Accused
10th August
1962
continued

/s/ Ramdeo Bucket,
10/6/62.

I hereby certify that I took this from
Ramdeo Bucket at San Juan Police Station on
Sunday, 10/6/62 at 3 p.m. I read it over
to him he said it was correct and signed it.

/s/ C. DeSouza
Insp. 2785,
10/6/62.

10

IN THE PRIVY COUNCIL

NO.36 of 1963

ON APPEAL

FROM THE COURT OF APPEAL OF TRINIDAD AND TOBAGO

B E T W E E N:

RAMDEO BUCKETT

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

T.L. WILSON & CO.,
6 Westminster Palace Gardens,
London, S.W.1.
Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
37 Norfolk Street,
London, W.C.2.
Solicitors for the Respondents.