IN THE FIJI COURT OF APPEAL

Criminal Jurisdiction

Criminal Appeal No. 4 of 1981

Between:

JAYANTI LAL LODHIA s/o Shanti Lal — Appellant

and

REGINAM — Respondent

Koya and Sahu Khan for the Appellant.
Fatiaki for the Respondent.

Dates of Hearing: 8th, 9th July 1981.

Delivery of Judgment: 31 JUL 1981

JUDGMENT OF THE COURT

Gould V.P.

The appellant was convicted by the Supreme Court at Suva of the offence of receiving stolen property on the 29th January, 1981 and sentenced to imprisonment for two years. The information charged the receipt of "jewelleries" valued at $2,543.00, on the 30th April, 1979, but the actual value of what was found or admitted to have been received became a matter of some materiality and debate at the trial. The three assessors returned unanimous opinions that the appellant was guilty; these were accepted by the learned Judge and the appellant was accordingly convicted. He now appeals to this Court against conviction; an appeal against sentence was abandoned.

It was not disputed that sometime before 3 p.m. on the 30th April, 1979, the house of Mr. & Mrs. Rameshwar Prasad

in Rewa Street, Suva, was broken into and jewelry stolen from a locked drawer in their bedroom. They were both away from the house at the time. Apart from one gold ring with an "R" on it, which belonged to the husband, all the jewelry was owned by and had been in the possession of Mrs. Prasad for some time. Her evidence, as transcribed in the summing up was that the jewelry was contained in a kit and comprised -

1 gold chain with sovereigns on it
1 gold chain with pendant
2 pairs of bangles (kangans)
2 pairs of earrings
2 woman's rings
1 man's ring with an "R" on it

In oddition there was some imitation jewelry and $40 in cash.

One Jag Prasad, who gave evidence at the trial (P.W.6), admitted that he broke into the house in question and stole jewelry. His evidence was that he took it straight to the shop of the appellant, Lords Jewellers, in Cumming Street, Suva, and gave the oppellant everything except the $40 cash, indicating to him that the jewelry was stolen. Jag Prasad said that they had had similar dealings before and that the appellant saw him alone. The appellant admits previous purchases from the witness but denies that the transaction took place when they were alone. He admits that he purchased jewelry from Jag Prasad on the 30th April, 1979. He denied however, that he purchased all the items given in evidence by Mrs. Prasad, and said that the items actually purchased were written down on a receipt or invoice (2062) a copy of which was produced and which was admittedly signed by Jag Prasad, but in the name "Navin Maharaj".

These items were:-

2 pairs kangans
1 necklace
2 rings
1 pair earrings

As to the money paid over on that occasion on the 30th April, Jag Prasad said he was paid $600 being $380 in respect of that transaction and $220 owing in respect of a previous transaction. The appellant's evidence was that only $380 was paid by him, the amount shown on the invoice; this was at his normal purchasing price for second hand jewelry by weight. He denied that there was anything surreptitious about the transaction and said that Jag Prasad mentioned nothing about the jewelry being stolen.

The appellant, while maintaining throughout that Jag Prasad had never intimated to him that any of the articles were stolen, did admit to having made purchases from him on two previous occasion, also under the name of Navin Maharaj. He did not know him as Jag Prasad. These two transactions were also borne out by copies of invoices; the first was on the 8th March, 1979 (No. 2054 showing three items), the second (No.2055 showing one pair of bangles) on the 20th March, 1979.

As to the transaction of the 30th April, 1979, Jag Prasad gave a list of articles stolen which differed in some respects from that of Mrs. Prasad and he was not quite sure what items were in the box he had stolen; but he was sure that he had taken the jewelry and sold it all to the accused straight away as he wanted to get rid of it all. He did not query the list of articles on invoice 2062 or the amount he was receiving, as he was afraid of the police and was in a hurry. Having regard to the way the case was left to the assessors nothing appears to turn upon whether $600 or $380 was handed over. The appellant said in evidence that when he asked Jag Prasad where he got the jewelry, the answer was that it had been given him by his grandmother and that it was the last day for making a payment on his house. The articles recovered from the appellant's workshop and admittedly the subject of the purchase on the 30th April, 1979, were the gold ring with

"R" on it, one pair of gold earrings one having a screw loose, and one kangan (bangle) of gold.

These brief references to the evidence suffice to indicate with clarity that only one real issue arase for decision by the assessors and the court. That is whether the appellant knew, when he purchased jewelry from Jag Prasad an the 30th April, 1979, that it was stolen jewelry. To this issue the number of articles involved is not germane. Those which the appellant admitted receiving were established by unchallenged evidence to have been in fact stolen. All that remained (subject to what we will say later about intent) was the state of appellant's knowledge.

Only brief mention is required of the fact that at the outset of the appeal counsel for the appellant made an application for leave to call before this Court evidence of a number of previous convictions of the witness Jag Prasad. Counsel for the appellant in the lower court had not thought fit to cross-examine him on the subject when he had a clear opportunity after the learned Judge himself had elicited the fact that the witness had been convicted and sentenced for the thefts in question. The material now sought to be placed before this court was available then with due diligence. The witness in question was referred to in the summing up of the learned Judge as a self-admitted thief, the assessors were aware from having heard his evidence that he was an habitual thief and that he was at the time serving a sentence for theft. To have granted the application would have served no useful purpose and it was accordingly refused.

We now come to the grounds of appeal, of which in their final form there were nine against conviction. The tenth, against sentence, was abandoned.

Ground No. 1(a) - (f) was orgued by counsel but

counsel for the respondent was not called upon by the Court. It reads:-

"1. THAT as to the rule that the Prasecution has to prove that a Receiver must have the requisite knowledge at the time of the receipt of the goods in question he knew that they were stolen, the Learned Trial Judge erred in law as follows:-

(a) He failed to make it clear to the Gentlemen Assessors that the knowledge to be proved by the prosecution was at the moment of the receipt of the goods in question and not at any time thereafter.

(b) He failed to direct the Gentlemen Assessors that mere suspicion was not sufficient.

(c) He failed to direct the Gentlemen Assessors that the question had to be determined by applying a subjective test.

(d) He failed to direct the Gentlemen Assessors that even if the Appellant, having regard to all the circumstances, ought to have known that the jewelleries were stolen property and deliberately shut his eyes and did not make inquiries, such facts were not sufficient to establish the said knowledge.

(e) He failed to direct the Gentlemen Assessors that the appellant's knowledge that the said jewelleries were stolen properties must be actual and personal and not based on the hearsay. Further, that the information imparted to him by the thief and Accomplice PW6 Jag Prasad that the jewelleries were stolen properties did not constitute in law the requisite knowledge on the part of the Appellant.

(f) He erroneously relied and permitted the Gentlemen Assessors to rely on the evidence of the witnesses who testified as to the value of the said jewelleries without any evidence that they did in fact possess or contain the requisite quality and quantity of gold or that they had 22 carat gold as testified by PW5 Suresh Jogia. (page 19 of the Record).

We would preface our remarks on this ground with the expression of our view that the summing up in this case was

detailed and particularly painstaking in its treatment of the evidence for both sides and its directions on the low so far as was necessary to deal with the issues which fell to be decided.

Ground (a) has no application. At least twice, the learned Judge emphasized this point when he told the assessors that the main issue was - "and the accused knew, at the time he received the jewelry that it had been stolen" and "when he purchased this jewelry from Jag Prasad, knew it had been stolen". No question of knowledge supervening later ever arose.

Grounds (b), (c) and (d) likewise are not relevant to the circumstances of the case. It was not a case of suspecting the appellant, or suggesting that he turned a blind eye and forebare from making proper enquiries - it was in fact the resolution of two conflicting versions of what actually took place at the time of the receiving. If the prosecution did not obtain acceptance of Jag Prasad's version in full the case failed and there was no question of a verdict based on suspicion arising from turning a blind eye or any other cause. Nor could there be any possibility that the assessors were directing their attention to the "knowledge" of the appellant from anything but a subjective standpoint. At one stoge the learned Judge directed -

> "If you decide that Jag Prasad, on whose evidence the prosecution largely rely, is not worthy of credit, then the prosecution must fail. "

Also he said -

> " In the light of certain directions that I will give later, it will be for you to decide where the truth of the matter lies, remembering always that the burden of proving the accused's knowledge of the jewelry being stolen lies on the prosecution. It is not for the defence to prove the absence of that knowledge. "

He is there telling the assessors to choose between the two conflicting versions, which, combined as it was with the reminder as to onus, was justified in the particular circumstances In our view there is nothing in any of these grounds.

Ground (e) has no merit. It was argued by counsel as in some way falling within the principle of R. v. Marshall /1977/ Crim. L.R. 106, but it does not. In that case the fact that the thief had said he bought the goods from a man who told him that the goods were stolen, was held insufficient to establish that they were in fact stolen - the words were hearsay. No such situation arises here where the fact of the goods having been stolen was established aliunde. We find it impossible to draw anything from this hearsay principle which could assist Mr. Koya's argument on the question of the appellant's guilty knowledge.

As to ground (f) as framed it appears to assert that the learned Judge should have excluded certain evidence from consideration on the ground that a market value should have been established by expert evidence from a witness who knew the market price. The words of the last few lines are taken from the headnote of R. v. Hack /1978/ Crim. L.R. 159. Once again this was a case in which an attempt was being made to establish that the goods were stolen and the alleged receiver had made a wild guess at their value. We do not accept that there is any true comparison in the present case.

Ground1 therefore fails in its entirety. In the case of ground 2 also we did not find it necessary to call upon counsel for the respondent. It reads:-

> "2. That the learned trial Judge did not direct as required by law that in addition to knowledge on the part of the Appellant that the said jewelleries were stolen properties, the Prosecution had to prove that the Appellant had

132

an intention to deal with them dishonestly. He ought to have directed that the Prosecution must prove that the Appellant received goods with a felonious intent. "

The argument, based on R. v. Dickson & Gray /1955/ Crim. L.R. 435 is that, even though a man may be shown to have received stolen goods knowing them to have been stolen, he may yet have an innocent intention, such as to hand them over to the police. In our opinion if there is material in a particular case which points to any possibility that the receipt of goods known to be stolen, was or may have been non-felonious, an appropriate direction must be given. Mr. Koya sought to make some claim to such a position by pointing to the fact that the appellant still had in his possession some of the articles more than a month after their receipt. This complied with section 6 of the Second Hand Dealers Act, 1971, which required dealers to retain (inter alia) gold articles, bought second hand from other than dealers for not less than o month before disposing of or oltering them. This was consistent, in his submission, with an innocent intention. Even if all the articles in question had been retained for the requisite period we doubt whether an inference of any strength would have arisen. But all of the articles were not kept and in fact no specific non-felanious intent was claimed, except that arising through ignorance of the theft, which was fully dealt with. We are not of opinion that any special direction was called for under this head and this ground alsa fails.

Ground 3 of the Notice of Appeal reads:-

"3. THAT the Learned Trial Judge ought to have directed the Gentlemen Assessors that all that was required from the Appellant as the Receiver of the said jewelleries a reasonable explanation as to how he came to the possession thereaf. In this regard the learned trial Judge erred in directing that the issue as to whether PW6 Jag Prasad had told the Appellant

> on the first occasion that he had brought stolen jewelleries to the Appellant for sale and that on subsequent occasions made it clear to him that they were of the same nature had to be determined as to who was telling the truth on this issue. Further he erred that the issue as to whether PW6 Jag Prasad sold whole of the jewelleries to the Appellant stolen by him from the house of PW1 Ramesh Prasad to the Appellant also had to be determined by inquiring as to who was telling the truth. (See page 88 of the Record). "

The ground is not well worded in that it states that the learned Judge should have directed that all that was required from the appellant was a reasonable explanation as to how he came to the possession of the goods. How he came into such possession was never in doubt - he admitted obtaining them by purchase from Jag Prasad in his shop.

However, Mr. Koya relied upon such cases as R. v. Schama & Abramovitch (1914) 11 Cr. App. R. 45 where the Court approved the use of such words as "If they think that the explanation may reasonably be true, though they are not convinced that it is, they should acquit"; applied to the present case, perhaps the Judge might have said "If you accept the explanation of the appellant that he bought the goods in all innocence over the counter, or though not convinced that it is true are left in doubt whether he acted innocently or not, you should advise acquittal". Slavish adherence to a form of words is not essential and the basic question is whether the assessors could have been misled into thinking that there was an onus on the appellant to show his innocence. That was what lay behind the decision in Schama & Abramovitch when the court said, at p. 49-50 -

> "..... the jury may have come to the conclusion that once they were satisfied that the appellants were in possession of the property, the burden of proof rested on them on proving the truth of their explanation. "

Bf

The learned Judge in the present case dealt with all the evidence in considerable detail and then said -

> " There are two salient features of the evidence for you to consider. Firstly, Jag Prasad says that, on the very first occasion he brought jewellery to the accused, he told him openly and clearly that it was stolen jewellery and that on subsequent occasions he indirectly made it clear to him that the jewellery was of the same nature, that is, stolen. Secondly, he says that whatever jewellery he stole from Rameshwar Prasad's hous , he took straight to the accused and sold him the whole lot as he wanted to get rid of it all.
>
> The accused says that Jag Prasad never at any time told him that the jewellery he was selling him had been stolen. As for 30th April, 1979, he says that the only jewellery that Jag Prasad sold him was what appears on the invoice 2062 of the purchase book (Exhibit 1).
>
> On these two broad issues, you may think, there is very little room for slight losses of memory. Either Jag Prasad is telling a deliberate lie or the accused is.
>
> In determining where the truth lies on these issues, you will no doubt take into consideration all the features of their evidence including ony discrepancies and inconsistencies that you may find in it, remembering always that it is for the prosecution to satisfy you beyond all reasonable doubt of the accused's guilt, there being no burden of proof on the defence. "

Earlier the learned Judge said:-

> "The prosecution say that he knew that it was stolen jewellery and it is for them to prove beyond reasonable doubt that he in fact knew that the jewellery had been obtained specifically by stealing."

We have already quoted a warning given by the Judge on this specific issue that they were to remember <u>always</u> that the burden of proving absence of knowledge that the goods were stolen lies on the prosecution and it was <u>not</u> for the defence

to prove the absence of that knowledge.

In the circumstances of this case we are satisfied that no misconception as to onus could have arisen, and this ground of appeal fails.

Ground 4 reads:-

"4. THAT on the question of corroboration, the Learned Trial Judge erred in law

(a) in directing that evidence as to undervalue of the said jewelleries could amount to corroboration of the evidence of the Accomplice PW6 Jag Prasad.

(b) that in permitting the Gentlemen Assessors to assume that there was sufficient evidence on the question of undervalue of the said jewelleries for the purpose of corroboration.

(c) in assuming that there was corroboration of the evidence of the Accomplice PW6 Jag Prasad as to the sale of the jewelleries to the Appellant prior to 30th April 1979 and erroneously permitted the Gentlemen Assessors to accept that there was such corroboration. "

As to the claim that evidence of undervaluation of the goods when purchased from Jag Prasad could not amount to corroboration of his evidence we have no doubt that, emerging from independent sources, it could, though we agree with Mr. Fatiaki that the emphasis was placed by the learned Judge, not upon mere undervalue but upon such phrases as "ridiculously low priced", and "inordinately low priced", "grossly undervalued". Mr. Koya, while conceding that there were cases in which undervalue had been considered in relation to guilty knowledge said he was unable to find one where it had provided corroboration. We see the question as one of probative effect and ordinary logic and do not need to take it further.

Ground 4(b). As to the sufficiency of the evidence of undervalue Mr. Koya did not argue this in any detail. We are in fact indebted to Mr. Fatiaki for a detailed examination of the evidence on this question which satisfied us that the learned Judge did not err in leaving it to the assessors as a matter for their consideration. There is no need to repeat the details.

The argument under Ground 4(c) was that even if the evidence of gross undervalue could corroborate Jag Prasad as to the transoction of the 30th April, 1979, it could not do so in relation to the two earlier transactions in March, 1979. These (though they were in fact admitted by the appellant) were merely evidential. The appellant was not under any charge in relation to them. The corroboration of Jag Prasad which was essential was corroboration in some material particular of his evidence showing guilty knowledge on the part of the appellant in relation to the transaction of the 30th April.

There is no merit in Ground 4. Ground 5 reads:-

> "5. THAT the learned trial Judge erred in holding that view that the acceptance of the Accomplice PW6 Jag Prasad's evidence that he did not give his occupation as "Aircraft Engineer" to the Appellant was dependent on the acceptance by the assessors that he had told the truth on another issue namely, that he had informed the Appellant at the very beginning that he was bringing stolen goods to the Appellant for sale. He further held in error that the occeptance of the defence version on this issue was dependent on the rejection by the Assessors of the evidence of the Accomplice PW6 Jag Prasad on the first issue. (See page 101 of the record). "

The complaint under this head arises from the penultimote paragraph in the following passage from the summing up:-

"The accused also says that Jag Prasad gave his occupation as "aircraft engineer" without being asked. This the accused strongly denies. He says that he had already told the accused that he was stealing jewellery and that the accused knew he was unemployed. Therefore, says he, there was no point in his giving any occupation to the accused.

This, you may think, lady and gentlemen, to be an extremely important issue. If the accused did give his occupation as "aircraft engineer" he could hardly have said in the same breath that he was a thief and was routinely bringing stolen jewellery for sale. On this issue again either Jag Prasad is telling a deliberate lie or the accused is.

In this regard two defence witnesses Kishore Lal and Olivia Matatea have given evidence that Jag Prodad described himself to them as Aircraft Engineer in one instance and Aircraft Pilot in the other. Jag Prasad has denied Kishore Lal's claim and admitted Olivia's giving his explonation why he kept on describing himself os aircraft pilot.

The prosecution case of course is that there was an understanding between Jag Prasad and the accused under which Jag Prasad kept bringing the jewellery he stole to the accused who kept buying it. It is for them to satisfy you beyond reasonable doubt that this was so and that Jag Prasad did not at any time describe his occupation to the accused os that af an aircraft engineer.

It is only if you are satisfied beyond reasonable doubt that Jag Prasad has told the truth on this issue, that is, that he told the accused at the very beginning that he was bringing stolen goods to him for sale that you will hold that he did not give his occupation as "Aircraft Engineer". If yau are not so satisfied and consider that he may reasonably have given his occupation as claimed by the accused, then you will accept the defence version on this issue. If you do that, lady and gentlemen, you can then hardly treat Jag Prasad as a witness worthy of credit. I will leave this matter for you to decide.

In deciding Jag Prasad's creditworthiness ar otherwise yau will no doubt bear in mind the whole of the evidence and learned counsel's comment on it. "

Clearly in the third line of the opening paragraph and second line of the following paragraph of that passage the word "accused" should be "Jag Prasad".

It is clear from this part of the summing up that the learned Judge regarded the question of whether Jag Prasad had given his occupation to the appellant as an aircraft engineer as one of the highest importance. He gives his reason in the second paragraph of the quotation. He then went on to call attention to two witnesses whose evidence tended to support the appellant's version by indicating other instances where the appellant was said to have used a similar description of his occupation. He might also have pointed out, but perhaps overlooked the point, that the appellant mode the claim at an early stage, in an interview with the police.

Ground 5 is, however, not concerned so much with the factual aspect as with an alleged misdirection in the penultimate paragraph of the quotation. Mr. Koyo submits that the Judge is saying that on the question of the truth or not of the oppellant's ossertion thot Jag Prasad gave that occupotion, the assessors must first find whether Jag Prasad had told the truth on onother issue i.e. that he was bringing stolen goods to him for sale. This meant thot the acceptance of the defence version was wholly dependent on acceptance or rejection of Jog Prasad's evidence on the other issue. The argument continued that this amounted to o direction that only the prosecution witnesses had to be evaluated. He relied upon Lockhart-Smith v. Republic of Tanzania /1965/ E.A. 211.

Mr. Fatioki conceded that the particular paragraph may have been unfortunotely worded but pointed out that it must be read in the context of the whole passage and summing up. The words complained of were in the nature of comment rather than direction.

This is a difficult matter, but in the first place we would not accept that the learned Judge was telling the assessors that they should decide either of these issues without regarding the defence evidence, nor would they have so understood him. A minute previously and dealing with this very issue he had reminded them of two witnesses whose evidence favoured the defence.

The learned Judge was in fact at this stage dealing with the question of the credit-worthiness of Jag Prasad, as a preliminary to his direction on corroboration, rather than with the broader issues. The final paragraph we have quoted shows this, and contains a direction to bear in mind the whole of the evidence; then the summing up continues -

> " Bearing in mind Jag Prasad's explanations in case of discrepancies and certain admitted lies, you should consider whether, on the main issues Jag Prasad's evidence is creditworthy. "

Then on the following page, is this -

> " You will also bear in mind the discrepancies and omissions that counsel have referred to including those I have already dealt with in this summing up.
>
> If you decide that Jag Prasad, on whose evidence the prosecution largely rely, is not worthy of credit then the prosecution must foil. If, on the other hand you do regard him worthy of credit, then you must consider the issue of corroboration. "

In thus telling the assessors to examine the question of the accomplice's credit-worthiness before even considering the question of corroboration the learned Judge was acting in accordance with practice and authority. The very nature of the particular factual situation may have made it a difficult direction, the intention of which was, we think, to suggest to the assessors, in favour of the defence, that if they either rejected Jag Prasad's evidence per se or accepted the defence

account of the giving of the aircraft engineer occupation, that put an end to Jag Prasad's credit-worthiness.

The usual direction on burden and standard of proof was given at the beginning and end of the summing up and at a number of appropriate places throughout, and we take the view that in the context of the very painstaking judgment as a whole, there was no risk that the assessors were misled into the wrong approach. This ground also fails.

Ground 6 reads:

> "6. THAT the learned trial Judge erred in law and in fact in not allowing to cross-examine the Accomplice PW6 Jag Prasad as regards his previous convictions when he was recalled to give evidence in rebuttal. "

We did not call for any answer to this ground by the respondent. What happened was that when Jag Prasad finished his evidence the Court, as mentioned above, elicited the fact that he had been prosecuted for the thefts and was in gaol. Counsel for the defence, invited then to put any further questions, did not. After the defence the prosecution successfully applied for him to be recalled on a limited rebuttal point. It was then that counsel for the defence sought leave to cross-examine on previous convictions and was refused. This was, at least technically, a correct ruling, but in any event, nothing of any materiality turns upon it. The learned Judge took care to ensure that the assessors knew in full measure the bad character of the witness in question. There is no merit in this ground.

Ground 7 reads:

> "7. THAT the learned trial Judge erred in law and in fact in not properly and/or adequately directing the Gentlemen Assessors that the Appellant was a man of good character in comparison with the bad character of the Accomplice PW6 Jag Prasad. "

As we have indicated, the learned Judge made continued reference to the bod character of Jag Prasad. In relation to the appellant he said -

> " You heard Mr. Janif's evidence as to the good character of the accused. That should be treated as a factor to be borne in mind in assessing the credibility of the accused's evidence. "

In our opinion that was sufficient.

Grounds 8 and 9 allege deficiencies in the summing up in relotion to directions appropriate when witnesses have made earlier statements inconsistent with their testimony in Court. We do not find the criticism justified in any material respect, and propose to comment anly upon the finol ground in Ground 9, which is as follows:-

> "Ground 9. That the learned Judge erred in not warning the Gentlemen Assessors that Jag Prasad was unreliable witness upon the grounds, inter alia, that he had told deliberate lies on material matters to the police, that he gave false occupation to the appellant and to other persons, that he gave inconsistent statement at the Preliminary Inquiry, that he gave inconsistent statement to the Police, that he had been an out-patient at the St. Giles Hospital since he was seven (7) years old, that he was taking drugs every day even during the days he attended the Court to give evidence, that he admitted (see page 28 of the Triol Record) that he felt intoxicated when he took the drugs; that he felt giddy all day and that he found little difficulty in remembering things. "

There are two relevant passages in the summing up: one reads:-

> " Jag Prasad admitted that he had been treated by the doctor at St. Giles Hospital but said that he had never been admitted into that hospital. He goes there every month and tokes some tablets. When he takes them he feels giddy all day and finds difficulty "just a little bit" in remembering things. He takes these drugs every day at present time."

and the other -

> " Before I deal with other aspects of Jag Prasad's evidence, I must warn you that there is no medical evidence whatever of the nature of any disease from which Jag Prasad may be suffering. You may, therefore, think that very little, if any, significance ought to be attached to the fact that he has been prescribed tablets. We have no evidence of what he is suffering from or what the tablets are. His own evidence is that the tablets make him giddy and in his own words he finds "difficulty, just a little bit, in remembering things". That is the only evidence on the subject and you must confine yourself to it. You have seen Jag Prasad in the witness box for a very long period and you must rely largely on that whether or not you can treat his memory as reliable. "

These passages, we think, speak for themselves and the learned Judge could only leave the matter in this way.

There is nothing in either of these two grounds upon which the appeal should be allowed.

The appeals both against conviction and sentence are dismissed.

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Vice President

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Judge of Appeal

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Judge of Appeal