DHANSUKHLAL AND OTHERS

v.

REGINAM

[COURT OF APPEAL, 1978 (Gould V. P., Henry J. A., Spring J. A.), 7th, 30th November]

Criminal Jurisdiction

Criminal law—evidence and proof—Director of Public Prosecutions' direction to prosecute—whether necessary formally to prove direction—Trade Disputes Act 1973 *ss.* 33, 40—Interpretation Ordinance 1967 *s.* 55.

The appellants were convicted in the Magistrate's Court of wilfully breaking their contract of service. On appeal from the Supreme Court which had dismissed their appeals:

Held: Where the authenticity or validity of a direction to prosecute signed by the D.P.P. is not questioned it is not necessary formally to prove the direction.

Cases referred to:

Ram Kirpal Hira v. R. Fiji Sup. Ct. C/A 56/67 (unrep.)
R. v. Waller [1910] 1 K.B. 364
Price v. Humphries [1958] 2 All E. R. 725
R. v. Metz 11 Cr. App. R. 164
R. v. McKenna 40 Cr. App. R. 65
R. v. Turner (1909) Cox C.C. 310

Appeal against the judgment of the Supreme Court dismissing an appeal from the Magistrate's Court.

M. S. Sahu Khan for the appellant

M. Jennings for the respondent

Judgement of the Court (read by SPRING J. A.):

This is an appeal from a judgment of the Supreme Court at Lautoka sitting in its appellate jurisdiction; by section 22(1) of the court of Appeal Ordinance this appeal is limited to questions of law.

The three appellants were convicted by the Magistrate's Court at Nadi of the offence of wilfully breaking a contract of service contrary to sections 14(1)(a) and 37 of the Trade Disputes Act 1973. The particulars of the offence allege that the three appellants in combination with other members of the Qantas Staff Association and the Airlines Workers Union between 21st day of October 1976 and 28th day of October 1976 being in the employ of Qantas Airways Limited did wilfully break their contract of service knowing or having reason to believe that the probable consequence of their so doing would deprive the public to a great extent of an essential service to wit air transport services.

Each appellant was convicted and fined the sum of $200. The Supreme Court upheld the decision of the Magistrate's Court; the appellants now appeal to this Court on point of law. The charges arose as a result of a strike of the members of the Qantas Staff Association and the Airline Workers Union at Nadi Airport which commenced on the 21st October 1976. Section 14(1)(a) of the Trade Disputes Act 1973 is in the following terms:

> "14.(1) Any person who wilfully breaks his contract of service, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be—
>
> *(a)* to deprive the public, or any section of the public wholly or to a great extent of an essential service, or substantially to diminish the enjoyment of that service by the public or by any section of the public.....shall be guilty of an offence."

Section 37 of the said Act prescribes penalties of fine, imprisonment or both for offences under the said Act. The facts briefly are as follows. The three appellants were all employed by Qantas Airways Limited at Nadi Airport. They had each signed a form headed "an application for employment" with Qantas Airways Limited which formed the basis of their employment and contained certain conditions thereof. One of the conditions reads—

> "the terms and conditions of my employment shall be in accordance with the appropriate industrial award or agreement and the Company's regulations as issued from time to time applicable to me, all of which I undertake to observe."

The application forms were all accepted by Qantas Airways Limited. The first appellant was appointed on 1st April 1965 as an apprentice (engineer), the second appellant was appointed on 1st February 1968 as an apprentice (engineer) and the third appellant was appointed as a traffic officer on 11th August 1971.

The three appellants were members of the Qantas Staff Association a duly registered Trade Union which Union entered into a collective agreement with Qantas Airways Limited on the 3rd October 1975 covering (inter alia) matters such as salaries, hours of work, overtime, holidays, allowances, leave, redundancies, grievance procedures, disciplinary procedures and other matters. This collective agreement is Exhibit 12A of the record (although it is incorrectly referred to in the judgment of the learned Magistrate as Exhibit 7). The three appellants signed this agreement for and on behalf of the Union. The first and second appellants were the president and secretary respectively of the Qantas Staff Association and the third appellant was an executive member. The third appellant was also the secretary of the Airline Workers Union which Union concluded a collective agreement with Qantas Airways Limited on the 2nd October 1975 in terms similar to the one mentioned earlier. The agreement between the Airline Workers and the Qantas Airways Limited is referred to as Exhibit 6 in the judgment of the learned Magistrate.

All three appellants were members of the negotiating team representing the above Unions which entered into discussions with Qantas Airways Limited with a view to settling the terms and conditions of employment which were to be embodied in new collective agreements; the existing ones (Ex. 12A and 6) were due to expire on 31st August 1976 although they remained extant until fresh agreements were signed.

Unfortunately discussions came to an abrupt standstill on 21st October 1976 and the three appellants along with other members of the Union withdrew their labour and went on strike. The evidence clearly establishes that there were disruptions in both the domestic and international flight schedules through Nadi Airport. Some flights were cancelled and cargoes both incoming and outgoing could not be handled. The strike resulted in the deprivation of the public to a great extent of the transport services. The three appellants were duly charged as aforesaid and convicted in the Magistrate's Court at Nadi. The Supreme Court on appeal upheld the convictions and the three appellants now appeal to this Court on points of law. The notices of appeal set out six grounds of appeal but at the hearing of the appeal grounds 1 and 5 were abandoned; the remaining grounds of appeal read as follows:

(2) That the learned appellate Judge erred in law in not holding that it was not properly proved that the consent of the Director of Public Prosecutions was obtained in terms of section 40 of the Trade Disputes Act and the whole proceedings was a nullity in as much as:

(a) that the matter affected jurisdiction,

(b) the question of the necessary consent to be before the Court was necessarily raised.

(3) That there was no evidence that exhibits 6 and/or 12(a) came within the provisions of section 33 (7) of the Trade Disputes Act in as much as there was no evidence that Sections 33(1) to 33(6) of the Act had been complied with and such compliance was a pre-requisite to the application of Section 33(7).

(4) That the learned appellate Judge erred in law in holding that there was evidence that the appellants acted in combination with the other employees of Qantas.

(6) That the learned appellate Judge erred in law in holding that the learned trial Magistrate dealt with the evidence against each appellant separately in as much as the learned trial Magistrate did not deal with the evidence against each appellant separately.

Turning now to the second ground of appeal Mr. Sahu Khan submitted that the authorisation for the prosecution of the appellants by the Director of Public Prosecutions (hereinafter referred to as D.P.P.) had not been properly proved before the Magistrate pursuant to section 40 of the Trade Disputes Act 1973 and that accordingly the Magistrate lacked juridisdiction and the trial was a nullity. Section 40 of the Trade Disputes Act 1973 says—

"No prosecution for an offence committed under the provisions of this act shall be commenced except by or upon the directions of the Director of the Public Prosecutions."

The amalgamated charge against the three appellants dated 3rd November 1976 reads as follows:

CHARGE

Statement of Offence

WILFULLY BREAKING CONTRACT OF SERVICE: Contrary to Section 14(1)*(a)* and 37 of Trade Disputes Act No. 7 of 1973.

Particulars of Offence

DHANSUKHLAL s/o MORARJI, *PARAS RAM s/o* RATI LAL and *BEATO RATULOCO* in combination with other members of the Qantas Staff Association and Airline Workers Union, between the 21st day of October, 1976 and 28th day of October, 1976, at Nadi in the Western Division, being in the employment of QANTAS AIRWAYS LIMITED, did wilfully break their contract of service knowing or having reason to believe that the probable consequence of their so doing would deprive the public to a great extent of an essential service to wit Air Transport Services.

Taken before me

(Sgd.) M. Singh 3.11.76
Prosecuting Officer, Nadi.

(Sgd.) S. W. Kepa
Magistrate
Date: 3.11.76 "

It appears that on 5th January 1977 when the prosecution was called before the Magistrate's Court at Nadi prosecuting counsel addressed the learned Magistrate and stated "Before plea is taken I wish to file consent of the Director of Public Prosecutions". The directions to prosecute signed by the D.P.P. authorising the prosecution of the three appellants were then produced to the learned Magistrate and they are dated 25th October 1976 in respect of the 1st and 2nd appellants and the 1st November 1976 in respect of the 3rd appellant. Counsel for the appellants submits that notwithstanding the tendering of the directions to prosecute duly signed by the D.P.P., the Crown was required to formally prove the authorisation to prosecute by the D.P.P. He submitted further that once the question of the authorisation of the prosecution by the D.P.P. was raised it was incumbent upon the Crown to prove by formal evidence that the necessary authorisation to prosecute by the D.P.P. had been duly given. In support of his argument he referred to *R. v. Turner* (1909) Cox C. C. 310. In Turner's case the signature of the D.P.P. was required to be proved as there was no statute which authorised the Court of Justice to take notice of the signature of the D.P.P. Accordingly counsel for the appellants submitted that it was incumbent upon the Crown to go further than merely tender to the Court the authorisation in writing by the D.P.P. to the prosecutions of the appellants. No objection was raised, however as to the authenticity of the authorisation to prosecute signed by the D.P.P. or that they were in any other way defective or invalid. Mr. Sahu Khan argued that once the question of the consent was raised the Crown must formally prove that the D.P.P. had authorised the prosecutions.

Mr Sahu Khan referred to *Ram Kirpal Hira v. Reginam* (Sup. Ct. of Fiji 56/1967). This case was decided on its own particular facts and in our view does not lay down a

proposition of law that would require in the instant case that the authorisation of the D.P.P. to prosecute (which was tendered without objection to its production) should be formally proved. A

Mr Jennings on behalf of the Crown submitted that section 40 of the Trade Disputes Act does not require the consent to be formally proved on oath and that the production to the Court of the authorisations to prosecute the appellants signed by the D.P.P. on a date prior to the amalgamated charges being laid, was sufficient compliance with section 40 of the Act; and that the principle enunciated in Turner's case (supra) had to be read subject to the provisions in Fiji of section 55 of the Interpretation Ordinance 1967 as amended by the Interpretation (Amendment) Ordinance 1970. Section 55 reads: B

> "55. Where the fiat, consent or authority of the Governor-General, the Prime Minister, a Minister or any person whose appointment is specified in the Constitution is necessary before any prosecution or action is commenced, any document purporting to bear the fiat, consent, or authority of the Governor-General, the Prime Minister, a Minister or person holding an appointment specified in the Constitution shall be received as prima facie evidence in any proceeding without proof being given that the signature to such fiat, consent or authority is that of the Governor-General, the Prime Minister a Minister or such person, as the case may be." C D

Section 85(1) of the Constitution of Fiji provides "There shall be a Director of Public Prosecutions whose office shall be a public office"

Counsel for the Crown submitted therefore that the Crown would only be required to formally prove the authorisation to prosecute if some objection was taken by the defence to the authenticity of the authorisation by the D.P.P. or for some other good or sufficient reason. In this case he argued that when the amalgamated charge was laid against the three appellants on 3rd November 1976 the written authorisations of the D.P.P. dated 26th October and 1st November as abovementioned were already in existence. Further that section 40 of the Act does not require the Crown to formally prove the authorisation to prosecute; it merely says that no prosecution for an offence under the Act shall be commenced except by or upon the directions of the D.P.P; in other words, a prosecution under the Trade Disputes Act cannot be commenced without the authority of the D.P.P. In the instant case such authority had already been given. In *R. v. Waller* [1910] 1 K.B. 364 it is stated at page 366— E F

> "The point which has now been taken is whether prima facie, and in the absence of objection by the prisoner, any evidence of that consent need be given at all at the trial. No doubt the giving of the consent is a condition which must be satisfied in fact, and unless it has in fact been given the indictment ought not to be allowed to go before the grand jury. But how far or under what circumstances that fact need be proved at the trial is a different matter. Under the Vexatious Indictments Act an indictment charging offences, in respect of which neither the prosecutor has been bound over to prosecute nor the person accused has been committed or bound over to appear and defend, cannot go before the grand jury without the consent of a judge or one of the law officers. But it is the duty of the clerk of assize to satisfy himself before the bill is presented to the grand jury that all the necessary steps preliminary to indictment have been G H

taken, and, unless objection be taken by the prisoner that there was no consent in fact, it is to be presumed that the clerk of assize has discharged his duty in that respect. The case of *Knowlden v. The Queen* 5 B & S 532 accordingly establishes that the consent of the judge to an indictment under the Vexatious Indictments Act is not one of the matters which the prosecution is called upon to prove as a part of the case before the petty jury. The principle of that decision equally applies to the consent of the Director of Public Prosecutions under the present Act."

Devlin, J. in *Price v. Humphries* [1958] 2 All E.R. 725 at page 727 said—

"Accordingly, when the matter comes on before the court the point that has to be determined, if it is necessary to determine it, is whether the summons be good or bad, whether the proceedings were instituted with or without authority. The usual practice is for the prosecution to produce the formal document about which, as I said, the clerk and, indeed, the justice, who issued the summons ought first to satisfy himself to show that the summons was properly issued."

It is acknowledged, however, that if objections were taken as to the authenticity of the authorisation to prosecute signed by the D.P.P. or the validity of the authorisation was called in question for some other good or sufficient reason then the Crown must be in a position to formally prove the authorisation to prosecute. Nothing of that sort arose in this case. The production to the Court of the authorisations by the D.P.P. signed and dated as abovementioned was by virtue of section 55 of the Interpretation Ordinance (supra) prima facie evidence of compliance with section 40 of the Trade Disputes Act; as no other objection was raised by the defence as to the authenticity of the said documents, their mere production was also sufficient evidence. In our view, therefore, the learned Judge was correct when he said—

"I do not think it is necessary that it be proved by evidence. Section 55 of the Interpretation Act provides that where the authority of a person whose appointment is specified in the Constitution is necessary before a prosecution is commenced any document purporting to bear the signature of such person shall be received as prima facie evidence in the proceeding, without proof of the signature. The Director of Public Prosecutions is a person holding an office specified in the Constitution, see section 85 of the Fiji Constitution 1970 Laws of Fiji page 412. Since the consents were tendered without objection to their production they can be received without further proof."

In passing it is to be noted that section 34 of the Criminal Justice Act 1925 (Imp) is couched in terms similar to the statutory provisions in Fiji. Section 34 (supra) reads:

"34. Fiats and consents of Attorney-General, etc. to be admissible in evidence. Any document purporting to the fiat, order or consent of the Attorney-General, the Solicitor-General, the Director of Public Prosecutions.....or the Board of Control respectively, for or to the institution of any criminal proceedings or the institution of criminal proceedings in any particular form, and to be signed by the Attorney-Generla, the Solicitor-General, the Director of Public Prosecutions or an Assistant Director of Public Prosecutions.....or a Commissioner or the Secretary of the Board of Control, as the case may be, shall be admissible as prima facie evidence without further proof."

Accordingly in our view this ground of appeal fails.

In arguing ground 3 Mr. Sahu Khan submitted that there was no evidence that the provisions of section 33(1) to (6) of the Trade Disputes Act 1973 had been complied with and that such compliance was a pre-requisite to the application of section 33(7) of the Act. The provisions of section 33 of the Act read as follows:

"33. (1) A copy of every collective agreement and any amendment thereof regulating the terms and conditions of employment of employees of one or more descriptions or determining in relation to employees of one or more descriptions, any matters for which a procedure agreement can provide shall be registered with the Permanent Secretary.

(2) The terms of every such agreement shall be set out in writing, shall be endorsed by or on behalf of the parties, and, where appropriate, by the conciliator or the chairman of the conciliation committee concerned.

(3) It shall be the duty of every party to every such agreement to secure that a signed copy of such agreement is lodged with the Permanent Secretary within twenty-eight days after it is made.

(4) Every collective agreement in force at the commencement of this Act shall be deemed to have been made and registered under the provisions of this Act, and it shall be the duty of every party to any such agreement to ensure that a signed copy of every such agreement shall be lodged with the Permanent Secretary within three months of such commencement.

(5) The Minister may by order prescribe those matters, including provision for the settlement of grievances, for which provision shall be made in a procedure agreement.

(6) On receipt of any such agreement the Permanent Secretary shall either—

(a) notify the parties of any matter which he is satisfied are contrary to the provisions of this Act or of any other written law; or

(b) notify the parties that the agreement has been registered.

(7) The provisions of any such agreement shall be an implied condition of contract between every employee and employer to whom the agreement applies.

(8) A registered agreement shall subject to the provisions of section 23 take effect from the date on which it is signed by the parties or on such other date as may be agreed by the parties and shall remain in force until the date on which the parties have agreed that it shall cease to have effect.

(9) Any person or organisation who or which contravenes the provisions of this section shall be guilty of an offence."

Section 33(1) refers to registration of a collective agreement and the definition of collective agreement" is—any agreement which—

(a) is made by or on behalf of one or more organisations of employees and one or more employers or organisations of employers; and

A *(b)* prescribes (wholly or in part) the terms and conditions of employment of employees of one or more descriptions, or a procedure agreement, or both."

The collective agreement is an agreement made between the employer and the Union; it is not the contract of service between the employer and the employee. "Contract of Service" is not defined in the Act but from an examination of the definition "employee" in the Act it is clear that a Contract of Service is a contract B entered into by an employee with his employer whether the contract is for manual labour, clerical work or otherwise and whether entered into orally or in writing.

The forms of application for employment which the appellants completed with Qantas Airways Limited contain the offer and acceptances of employment and are the contracts of service.

C Section 33(7) provides that the terms of the collective agreements (Ex. 12A and 6) are to be considered as being implied operative terms of the contract of service although it is probably only those terms which are appropriate and have direct reference to an employee's contract of service which are of moment. However, Mr. Sahu Khan submitted—

(1) that there was no evidence that the collective agreements (Ex. 12A & 6) had D been registered under section 33(1);

(2) that there was no evidence that the Permanent Secretary for Labour had notified the parties to the agreements that they had been registered as required by section 33(6).

Under section 33(6) the Permanent Secretary for Labour upon receipt of a collective agreement is required to either notify the parties of any matters contained in the E agreements of which he disapproves or notify the parties that the agreement has been registered. Counsel for appellants submitted that unless and until there was compliance with section 33(6) the collective agreements did not form part of the contract of service between the employer and employee and accordingly were not enforceable. Mr. Jennings for the Crown argued that there was sufficient evidence before the learned Magistrate that the agreements had been duly registered by the F Permanent Secretary for Labour; and further that on the evidence, and the lack of any challenge by the defence, it was implicit that the Permanent Secretary had performed his duty of notifying the parties of the fact of registration of the agreements. Mr. Jennings called in aid the maxim *omnia praesumunter rite esse acta* and submitted that there being no challege by the defence as to the registration of the agreements, and, on the evidence the learned Judge was in the circumstances entitled to draw the presumption that the agreements had been duly registered and G that the Permanent Secretary for Labour had performed his statutory duty of notifying the parties. The collective agreement Ex. 12A is dated 3rd October 1975 and collective agreement Ex. 6 is dated 2nd October 1975 and under section 33(3) it is the duty of every party to the agreement to secure that a signed copy is lodged with the Permanent Secretary for Labour within 28 days after the agreement is made.

H Mr Robert Waterman, Personnel Officer of Qantas Airways Limited said—

"Agreement with Airline Workers Union was sent to Secretary of Labour for registration but I can't remember the date. This was signed on 2nd October 1975. Exhibit 6."

The Permanent Secretary for Labour gave evidence and said—

"There is an obligation under the Act of Collective Agreement to be registered. The Agreement between Qantas and Airline Workers Union was registered with us. The 1975/1976 Collective Agreement between Qantas and Airline Workers Union was registered on 10th April, 1975. I also have registered agreement between Qantas and Q.S.A. 1975/1976 Collective Agreement. The 1976/1977 Agreements were also registered. 1976/1977 Q.S.A. registered on 19th January, 1977. 1976/1977 Airline Workers Union registered also on 19th January, 1977."

No cross-examination was directed by defence counsel as to the registration of the agreements nor was any challenge made at the hearing that the Permanent Secretary had not discharged his obligations under the Act in respect of notification to the parties of registration of the agreements. The defence called Krishna Lal, an Executive member of Qantas Staff Association and a member of the Unions negotiating team who stated—

"I attended negotiations. The 1st defendant was the principal speaker for the Unions. The 1st defendant spoke on matter affecting the negotiations. I was aware of the Grievance Procedure under Qantas Staff Association contract.

"I was aware of Article 25B of that agreement."

Further he stated—

"We breached Article 25B of the agreement."

From this evidence we agree that the learned Magistrate was entitled to conclude—

"As the evidence of D.W.2 Mr. Krishna Lal had revealed, the Union went on strike even though they knew of the existence of Grievance Procedure in their Master Agreement with Management as well as the provisions in the Trade Disputes Act 1973 which they should have complied with."

It is pertinent to note that no challenge was made in the Magistrate's Court as to registration of the agreements; nor was the point raised nor any suggestion made that notice had not been given to the parties of such registration: nor was any submission made of "No Case" at the close of the prosecution case. Further, the statement by Krishna Lal that section 25B of the agreement had been breached was tantamount to an admission that the agreement was binding upon the Union and in our view had the question of notification of registration arisen in the Magistrate's Court the inference could very properly have been drawn by the learned Magistrate from the evidence and the admitted facts that the Union had acknowledged the validity and enforceability of the agreements and a fortiori its due registration.

In his judgment in the Supreme Court the learned Judge stated—

"I think that the Permanent Secretary has to perform a statutory duty. He must be presumed to have fulfilled it unless challenge is made at such a time and in such a way that evidence can be called. If objection had been made at the proper time leave would have been given to recall the Permanent Secretary—see Price v. Humphries per Devlin J at page 727."

In our view the learned trial Judge was correct in coming to this conclusion as the point raised by counsel for the appellants in the Supreme Court that the Crown had omitted to prove that the Permanent Secretary had notified the parties of the fact of registration of the agreements was in the circumstances and having regard to the proceedings and the evidence given in the Magistrate's Court a highly technical piece of formal evidence which did not in any way touch upon the substance of the matter.

It has been held that the Court will not give effect to a purely technical point which might have been taken at the trial vide *R. v. Metz* 11 Cr. App. R. 164.

In *R. v. McKenna* 40 Cr. App. R. 65, the defendant was charged with the export of articles in contravention of the Export of Goods Order 1952. To be within the terms of the Order the articles had to be "goods subjected to any process of manufacture, wholly or mainly of iron or steel." A submission of "no case" was made at the end of the prosecution on the ground that there was no evidence that any of the articles in question were made wholly or mainly of iron or steel. The judge recalled a prosecution witness to give that evidence and then ruled that there was a case to answer. It was held that in such circumstance a judge has a complete discretion whether a witness shall be recalled and the Court will not interfere with the exercise of it unless it appears that thereby an injustice has resulted. It was held by the Court of Criminal Appeal that there was no injustice and that the submission was highly technical because as the Court said "it required no very great leap of imagination to think that steam-rollers or traction engines are made mainly of iron or steel.....indeed without the evidence of the recalled witness there would have been sufficient evidence for the case to go to the jury."

Accordingly, we are of the opinion that having regard to the admissions made by Krishna Lal, the totality of the evidence, the positions that the appellants held in the above mentioned Trade Unions and the particular circumstances of this case the learned Judge was entitled to conclude that the Permanent Secretary must be presumed to have discharged his duty in respect of notification of the registration of the agreements.

We conclude therefore that on its own special facts no injustice arose in this case and accordingly this ground of appeal fails.

Mr. Sahu Khan argued grounds 4 and 6 together. He submitted in respect of ground 4 that there was no evidence that the appellants acted in combination with other employees of the Unions in withdrawing their labour. The evidence clearly establishes that the 3 appellants along with other members of the Union withdrew their labour between 21st October and 28th October 1976. Krishna Lal in his evidence says—

> "We told the Union members that we were not going to have any further negotiations with present Management team. We put the issue to the members and they decided to walk off as a body. We told Management there was no point in going on with negotiations. We didn't tell Management we were going on strike."

The learned Magistrate in his judgment says—

> "The evidence adduced by the Prosecution clearly shows that the three defendants walked off their employment on 21st of October in combination with the

other members of the Union. The list of employees on Management pay roll on 21st October, 1976 were 329 as shown on Ex. 8. Apart from those employees on leave the rest walked out on strike on 21st October." A

We are satisfied therefore that there is no merit in this ground of appeal and accordingly it is dismissed.

In respect of ground 6 Mr. Sahu Khan submitted that the learned Magistrate had not dealt with the evidence against each appellant separately. The evidence reveals that the appellants who were all members of the Unions negotiating team went on strike with the avowed purpose to force the management to come to an agreement over the Unions' claim for better terms. Separate defences were not advanced by any of the appellants; it is patently clear that the evidence against each appellant shows a common intention to wilfully withdraw his labour and go on strike. Had the Magistrate gone through the evidence in respect of each appellant separately it would merely have been repetitive and we agree with the learned Judge when he said— B C

"In this case I think the matter is one simply of the use of words. If for example the learned Magistrate had said in his finding "I find that each of the defendants wilfully broke his contract of service," instead of "I find that the three defendants wilfully broke their contract of service" there could probably have been no complaint. I am satisfied that the appellants' complaint is no higher than that." D

Accordingly we find this ground of appeal fails.

For the reasons we have given the appeals by all three appellants are dismissed.

Appeals dismissed.