



Statement of the Court

***PETER STANLEY GANT V THE QUEEN
MOHAMED AMAN SIDDIQUE V THE QUEEN***

WEINBERG, PRIEST and McLEISH JJA

27 April 2017

The Crown's concession as to the outcome of this appeal is, of course, welcome. However it is a matter of considerable regret that this Court was not notified until 4.45 pm last night that the Crown proposed to make the concession that the applicants' convictions were unsafe, and should accordingly be quashed.

A vast amount of time has been spent by the members of this Court, their staff and the Registry in preparation for the hearing of this appeal.

The belated decision of the Crown to make the concession in the way that it has means that our work has been significantly disrupted. It has resulted in not just inconvenience, but actual prejudice to the rights of other litigants to have their cases heard before this Court in a timely manner.

The Crown's concession is, of course, not binding on this Court. It is the Court itself which must determine whether the convictions should be set aside.

That said, it is sufficient at this stage if we say that all members of the Court had independently arrived at the provisional view without, of course, having heard full argument, that these convictions could not stand. Detailed reasons will follow in due course.

We do not propose at this time to express criticism of the decision to pursue these charges. Nor do we have anything to say at this stage regarding the manner in which the prosecution was conducted. We may address these matters in our detailed reasons.

We note, however, that Justice Croucher recognised the deficiencies in the Crown case from a very early stage of the trial. His Honour took an unusual course in deferring the execution of sentence, thereby enabling an application for bail pending appeal to be heard. That application was, of course, successful. That has, to some extent, mitigated the harm done to the applicants by what has occurred.

His Honour also took the unusual course of providing this Court with a lengthy report setting out, in considerable detail, why he considered that the jury, if they had acted reasonably, must have acquitted.

The threshold for such a challenge to a jury verdict is, properly, a high one. However, as can be seen from the Crown's concession, that high hurdle has been overcome in this case.

As Senior Counsel for the Director acknowledged, in his submission before the Court this morning, 'There is here a significant possibility that innocent men have been convicted and each of them should, accordingly be acquitted.'

The members of this Court, between them, have considerable experience in the practice of the criminal law. It is sometimes said that juries 'always get it right'. Sadly, in this particular instance, that seems not to have been so.

Trial by jury is of fundamental importance to both the rule of law, and to our system of criminal justice. It represents perhaps the greatest safeguard that we have of the rights of the individual against the State. There have been literally thousands of criminal trials conducted over the years without anyone being able to demonstrate that the jury, assuming they were properly directed, and the trial was otherwise properly conducted, had wrongly convicted an accused person. This case is a rare and almost unique instance of the system having failed in that regard.

It is fortunate that the mechanism of the appeal to this Court, coupled with the fairness of the prosecuting authorities in recognising that failure, has resulted in a rectification of that error. However, nothing can ever fully restore the applicants to their original position.

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