

SAINT CHRISTOPHER AND NEVIS

IN THE COURT OF APPEAL

CRIMINAL APPEAL NO. 5 of 1991

BETWEEN:

CONRAD CLARKE

Appellant

and

THE QUEEN

Respondent

Before: The Honourable Chief Justice Floissac - President
The Honourable Mr. Justice Byron J.A.
The Honourable Mr. Justice Matthew J.A. (Ag.)

Appearances: Dr. Henry Browne for the Appellant
Mr. Malcolm Holdip for the Respondent

1992: March 25.

JUDGMENT

FLOISSAC, C.J.

The appellant was charged with Housebreaking and Larceny contrary to section 28(a) of the Larceny Act Chapter 41 of the Revised Edition 1961 of the Laws of Saint Christopher and Nevis. The charge was that between the 9th - 10th February, 1991 at Bird Rock in the Parish of St. George in the Island of Saint Christopher, the appellant broke and entered the dwelling house of Francisco Jong and stole two bales of Rice and two boxes of chicken legs.

On the 17th September, 1991, after a trial by a Jury presided over by Singh J., the appellant was convicted of the offence charged and was sentenced to imprisonment for a term of 5 years. He appealed against his conviction and sentence.

With regard to the conviction, Counsel for the appellant submitted that the learned trial Judge erred in law in failing, at the close of the case for the Prosecution, to direct the Jury to return a formal verdict of not guilty on the ground that there was insufficient evidence of the offence charged to be left to them. After a valiant attempt to substantiate his submission and after it was pointed out to Counsel that the issue was the quality rather

than the absence of evidence, Counsel quite properly withdrew the appeal against conviction.

Counsel nevertheless sought to persuade the Court to reduce the sentence on the ground that (1) the appellant is 31 years old; (2) he was gainfully employed at the time of the offence; (3) he is a father of a child 5 years old; and (4) the value of the goods was only \$205.00.

Unfortunately, the appellant has nine (9) previous convictions, six (6) of which are for offences involving dishonesty.

In those circumstances, there could be no justification for appellate interference with the sentence.

The appeal is therefore dismissed and the conviction and sentence affirmed.

(Sgd.) V.F.FLOISSAC
Chief Justice

(Sgd.) C.M.D.BYRON
Justice of Appeal

(Sgd.) A.N.J.MATTHEW
Justice of Appeal (Ag.)