

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE COURT OF APPEAL**

SAINT VINCENT AND THE GRENADINES

SVGHCRAP2016/0005

BETWEEN:

MARSHALL PHILLIPS

Appellant

and

THE KING

Respondent

Before:

The Hon. Mde. Margaret Price-Findlay
The Hon. Mr. Trevor Ward
The Hon. Mr. Gerard St. C. Farara

Justice of Appeal
Justice of Appeal
Justice of Appeal [Ag.]

Appearances:

Mr. Stephen Williams for the Appellant
Ms. Tammika Da Silva-Mckenzie for the Respondent

2023: July 25;
2024: February 29.

Criminal appeal against conviction – Murder – Self-defence – Whether the judge failed to properly direct the jury on the issue of pre-emptive strike as it relates to self-defence – Provocation – Whether the trial judge failed to properly direct the jury on the issue of provocation

On 17th December 2015, the appellant was convicted of the murder of Mr. Terrance John also known as 'Hot Skull' ("the deceased"). The incident leading to the murder took place on 30th September 2013. On 16th March 2016, the appellant was sentenced to 19 years imprisonment.

The prosecution's case was based on the evidence of three main witnesses. Ms. Hyacinth Matthews testified that she heard the appellant and the deceased arguing. She heard the deceased say to the appellant that he could not buy gas and the appellant then stabbed the

deceased in his back. She saw the deceased's brother approaching, went inside her home and shortly thereafter, she observed the deceased bleeding on her porch. Ms. Eleno Thomas testified that she heard someone bawling. She observed the appellant and asked him what had happened. The appellant responded, "bawl for murder, bawl for murder, go up and see wha' me do Hot Skull." Mr. Romario Rawlins testified that he ran to the area where the deceased (his brother) and the appellant were. The appellant looked in his direction, said, "oh two alyuh" and then stabbed the deceased in his neck.

The appellant's case was that he had left his home that morning and was angry after a disagreement with his uncle. He passed the deceased man, he had an argument with him, and the deceased taunted him by telling him he does bull for money. The deceased man also threw two stones at him. He had a pair of scissors in his hand and he stated that his hand collided with the deceased and he received the fatal wound to his neck.

Being dissatisfied with his conviction, the appellant appealed on the grounds that the learned trial judge erred in failing to properly direct the jury on (1) the issue of pre-emptive strike as it relates to self-defence, and (2) the issue of provocation.

Held: dismissing the appeal against conviction and affirming the appellant's conviction and sentence, that:

1. A trial judge is duty bound to provide a direction on self-defence and leave that issue for the jury to consider as long as that defence arises from any evidence or material during a trial. It does not matter whether it emerges from the evidence or material adduced by the defence or by the prosecution. A trial judge, applying common sense to the evidence in the particular case, makes the determination as to whether or not the evidence is sufficient to raise self-defence. There are no prescribed words to convey to the jury the concepts of self-defence or pre-emptive strike. All that is needed is a clear exposition, in relation to the facts of the case. In this case, the judge clearly appreciated that the appellant was alleging, among other things, that he was acting in self-defence and left that defence to the jury. She clearly set before the jury the meaning of self-defence and directed the jury to the appellant's evidence that he was fending off an attack by the deceased and his brother, as evidenced by the transcript. When the learned trial judge made reference to a "threatened attack" in the context of her direction on self-defence, the jury were made aware that the appellant could act in self-defence prior to the actual attack. That is the essence of a pre-emptive strike. The jury hearing this direction would have been left in no doubt that the appellant could have struck before he was attacked if he reasonably believed that an attack was imminent. The trial judge therefore did not err in her direction on the issue of pre-emptive strike as it relates to self-defence and the first ground of appeal failed.

Ewart Bacchus v The Queen SVGHCRA2008/006 (delivered 29th April 2011, unreported) followed; **R v Bonnick** [1977] 66 Cr App R 266 applied; **Palmer v R** [1971] AC 814 applied.

2. Where a summation is criticised on the ground that it lacks fairness and balance one has to consider the criticisms in the context of the summation as a whole and the several issues which arose for decision. An appellate court is enjoined to look at the thrust of the directions and consider whether they have adequately put the several issues before the jury and given them a proper explanation of their task in relation to those which they have to decide.

Shonovia Thomas v The Queen BVIHCRA2010/006 (delivered 27th August 2012, unreported) followed.

3. On a charge of murder, where there is evidence on which the jury can find that the accused person was provoked, whether by things said or things done or by both and lost his self-control, the question whether the provocation was enough to make a reasonable man of the age and with the characteristics of the accused react as the accused did shall be left to the jury for determination. There are no precise words to give a direction on provocation, only a clear explanation to the jury of the legal principles to be applied and an indication of the evidence which is supportive of the legal principles is necessary.

Joseph Bullard v The Queen [1957] AC 635 applied; **Che Gregory Spencer v The Director of Public Prosecutions** SKBHCRA2009/013A (delivered 10th February 2014, unreported) followed.

4. On the facts, the issue of provocation arose as the appellant's evidence alleged that the deceased taunted him by throwing words at him. The judge rightfully explained what provocation was and directed the jury to the appellant's evidence of the provocative behaviour. She went even further and addressed the issue of provocation on the respondent's case. The judge directed the jury on the burden on the prosecution to disprove provocation, she properly told the jurors that provocation did not only have to come from the words or actions of the deceased, but also the words and actions of his brother Romario, and she also directed them that if they found the accused was indeed provoked, they were to go on to consider whether a reasonable man would have responded as the appellant did. She explained who the reasonable man was and properly directed the jury that if a reasonable man would have so acted, they were to return a verdict of manslaughter. Having considered the totality of the directions given by the learned judge, the summation was fair and balanced. There was no error on the judge's part and this ground of appeal also failed.

JUDGMENT

- [1] **PRICE-FINDLAY JA:** Before the Court was an appeal by the appellant against his conviction after he had been found guilty of the murder of one Terrance John.

BRIEF FACTS

- [2] On 17th December 2015, the appellant was convicted of the murder of Terrance John also known as 'Hot Skull' ("the deceased"). The incident leading to the murder took place on 30th September 2013. On 16th March 2016, the appellant was sentenced to 19 years imprisonment, from the date of conviction.
- [3] The prosecution's case was based on the evidence of three main witnesses. Hyacinth Matthews testified that she heard the appellant and the deceased arguing. She heard the deceased say to the appellant that he could not buy gas; those were the words she made out. The appellant then stabbed the deceased in his back. She saw the deceased's brother approaching, went inside her home and shortly thereafter, she observed the deceased bleeding on her porch.
- [4] Eleno Thomas testified that she heard someone bawling. She observed the appellant and asked him what had happened. The appellant responded, "bawl for murder, bawl for murder, go up and see wha' me do Hot Skull."
- [5] Romario Rawlins testified that he ran to the area where the deceased (his brother) and the appellant were. The appellant looked in his direction, said, "oh two alyuh" and then stabbed the deceased in his neck.
- [6] The appellant's case was that he had left his home that morning and he was angry after a disagreement with his uncle.
- [7] He passed the deceased man, had an argument with him, and the deceased taunted him by telling him he does bull for money. The deceased man also threw two stones at him. He had a pair of scissors in his hand and his hand collided with the deceased and he received a fatal wound to his neck.
- [8] At the conclusion of the evidence for the prosecution and the defence, the jury found the appellant guilty of murder.

- [9] He appealed against his conviction on the grounds that the learned trial judge erred in failing to properly direct the jury on (1) the issue of pre-emptive strike as it relates to self-defence, and (2) the learned trial judge failed to properly direct the jury on the issue of provocation.

GROUND 1

- [10] The appellant submitted that the learned trial judge misdirected the jury on the law relating to self-defence. In particular, the learned trial judge failed to direct the jury on the issue of a pre-emptive strike as it relates to self-defence.
- [11] The appellant posited to the Court that the failure of the learned trial judge to properly direct the jury or to properly address the issue of preemptive strike as it relates to self-defence resulted in the appellant's conviction being unsafe in the circumstances.
- [12] Further, had the jury been properly directed on the issue of a pre-emptive strike, they may have returned a verdict of not guilty of murder.
- [13] The respondent submitted that on the evidence before the court below, three defences were raised: accident, self-defence and provocation. The respondent argued that the learned trial judge placed all the defences properly before the jury and further gave proper and adequate directions with respect to each defence raised by the appellant.
- [14] They further posited that the learned trial judge went further by providing a "route to verdict" to assist the jurors in arriving at a decision.
- [15] They argued that there was no error made by the learned trial judge in her treatment of the issue of self-defence and of the issue of the pre-emptive strike.

[16] In Solomon **Beckford v The Queen**,¹ Lord Griffiths stated:

“.....the test to be applied for self-defence is that a person may use such force as is reasonable in the circumstances as he honestly believes them to be in defence of himself or another.”

[17] Further in **Palmer v R; Irving v R**,² the Privy Council stated:

“It is both good law and good sense that a man who is attacked may defend himself. It is both good law and common sense that he may do, but may only do, what is reasonably necessary. But everything will depend upon the particular facts and circumstances...If there is some relatively minor attack it would not be common sense to permit some act of retaliation which was wholly out of proportion to the necessities of the situation. If an attack is serious so that it puts someone in immediate peril then immediate defensive action may be necessary. If the moment is one of crisis for someone in immediate danger he may have [to] avert the danger by some instant reaction.”

[18] As stated by Rawlins CJ in **Ewart Bacchus v The Queen**:³

“It is [a] trite principle often repeated by this court, for example by Satrohan Singh JA in *Donnason Knights v The Queen*, that a trial judge is duty bound to provide a direction on self-defence and leave that issue for the jury to consider as long as that defence arises from any evidence or material during a trial. It does not matter whether it emerges from the evidence or material adduced by the defence or by the prosecution.”

[19] In **R v Bonnick**⁴ the English Court of Appeal stated:

“When is evidence sufficient to raise an issue, for example, self-defence, fit to be left to a jury? The question is one for the learned trial Judge to answer by applying common sense to the evidence in the particular case. We do not think it right to go further in this case than to state our view that self-defence should be left to the jury when there is evidence sufficiently strong to raise a prima facie case of self-defence if it is accepted.”

[20] In this case the learned trial judge clearly appreciated that the appellant was alleging, among other things, that he was acting in self-defence and left that defence to the jury.

¹ [1988] AC 130 at page 145.

² [1971] AC 814 at page 831.

³ SVGHCRA2008/0006 (delivered 29th April 2011, unreported) at page 9.

⁴ [1977] 66 Cr App R 266 at page 269.

- [21] She clearly set before the jury the meaning of self-defence as follows:
- “.....the law is if a man kills another whilst acting in lawful self defence under an attack or a threatened attack he commits no criminal offence and so if you find that were the case here the accused would be entitled to a verdict of not guilty.”⁵
- [22] The learned trial judge related this clear statement of the law to the facts as led by the defence by directing the jury that the appellant’s evidence was that he was fending off an attack upon himself by the deceased and his brother.
- [23] The learned trial judge went further, she said:
- “So what is self defence? A man acts in lawful self defence if it is necessary for him to defend himself and the amount of force used in self defence is reasonable.”⁶
- [24] More importantly, the learned trial judge instructed the jury that:⁷
- “When considering this aspect of the case you must bear in mind three important matters: (1) self defence only comes into play when you come to the conclusion that the accused was in fact defending himself, that would only be the case if he was attacked or threatened with attack and it was in your judgement necessary for him to defend himself against that attack or threatened attack.”
- [25] The learned trial judge went even further when she instructed:⁸
- “Now bear in mind there is no obligation on the accused to retreat or run away if he [is] attacked or if he feels he [is] under threat of an attack.”
- [26] In order for the learned trial judge to convey to the jury the concept of a pre-emptive strike, there are no prescribed words or special formulation of words which a judge must use. It is the duty of the trial judge to convey to the jury in terms which they understand what the law is and how they should apply the law to the facts as they find them.

⁵ Transcript of proceedings page 456 Appeal Bundle Vol 2.

⁶ Transcript of proceedings page 456 Appeal Bundle Vol 2.

⁷ Transcript of proceedings page 456 Appeal Bundle Vol 2.

⁸ Transcript of proceedings page 457 Appeal Bundle Vol 2.

[27] In **Palmer v R**,⁹ it was said:

“Of all these matters, the good sense of the jury will be the arbiter. There are no prescribed words which must be employed in or adopted in a summing up. All that is needed is a clear exposition, in relation to the facts of the case of the concept of necessary self-defence.”

When the learned trial judge made reference to a “threatened attack” in the context of her direction on self-defence, the jury were made aware that the appellant could act in self-defence prior to the actual attack. That is the essence of a pre-emptive strike. The jury hearing this direction would have been left in no doubt that the appellant could have struck out before he was attacked if he reasonably believed that an attack was imminent.

[28] A person acts in self-defence if it is necessary for him to defend himself and the amount of force used is reasonable. If the jury believed and concluded that the appellant was being attacked or being threatened with an attack, then self-defence would come into play.

[29] If the jury had accepted the appellant’s version of events, it was open to them to find that he was either being attacked or was threatened with an attack, then it was open to them to return a verdict of not guilty. By their verdict of guilty, clearly the jury believed the case for the prosecution and were satisfied to the requisite standard of the appellant’s guilt.

[30] On the issue of self-defence, the learned trial judge stated:¹⁰

“Even if the accused was not the aggressor as the crown says he was, if the response by Terrance John, the victim, was so out of proportion that it was necessary for the accused to defend himself then the accused may still be acting in self-defence.”

[31] And later, the learned trial judge said:¹¹

⁹ Supra n. 2 at page 832.

¹⁰ Transcript of proceedings page 457 Appeal Bundle Vol 2.

¹¹ Transcript of proceedings pages 459-460 Appeal Bundle Vol 2.

“.....on the point of the initial aggressor, on the aggressor point I propose to say that the crown describes him as the aggressor – as the aggressor because after Terrance John gave him words he slapped Terrance John and not being satisfied with the slap he also stabbed him on the back.....My direction to you on this issue of the accused being the initial aggressor is this if you believe that he was indeed the aggressor the matter does not end there, do not automatically reject self defence. Even though you may think that it was unwise or imprudent for him to aggravate the situation by stabbing the deceased in his back after slapping him he may still have been acting in lawful self defence at the moment he inflicted the fatal injury...”

[32] The learned trial judge then took the jury through the evidence as to what were the actions of the appellant on the day in question. The judge also instructed the jury that an intention to kill or cause serious bodily injury was not inconsistent with the defence of self-defence.

[33] In **R v Keane**; **R v McGrath**,¹² Hughes LJ stated:

“.....[i]t is certainly true that it is not the law that the fact that a Defendant either started the fight or entered it willingly is always and inevitably a bar to self-defence arising...the law is the proposition that self-defence may arise in the case of an original aggressor but only where the violence offered by the victim was so out of proportion to what the original aggressor did that in effect the roles were reversed.”

[34] The issue as to whether a plea of self-defence is available depends on whether the retaliation is such that it was so out of proportion to the accused's own actions as to give the accused reason to apprehend that he was in immediate danger from which there was no escape and whether the violence used as a result was proportionate to protect himself from injury.

[35] Here, the learned trial judge properly directed the jury that even if the appellant was the aggressor as the Crown's case presented, they had to carefully examine the facts to ascertain whether the response from the deceased was such as to allow the appellant to act in relation to the deceased as he did.

¹² [2010] EWCA Crim 2514 paragraph 17.

[36] Having carefully examined the directions on self-defence in their entirety, I can find no error in the directions given to the jury by the learned trial judge, such that would render the verdict unsafe or unsatisfactory.

[37] Therefore, this ground of appeal fails.

GROUND 2

[38] The appellant complains that the learned trial judge's directions on provocation were unfair in that she failed to highlight evidence which was capable of showing the jury that the appellant had lost his self-control and had been provoked.

[39] Counsel for the appellant further complained that the learned trial judge's summation with regard to the issue of provocation was heavily in favour of the prosecution and this led to unfairness to the appellant.

[40] In **Joseph Bullard v The Queen**,¹³ the court stated:

"It has long been settled law that if on the evidence, whether of the prosecution or of the defence, there is any evidence of provocation fit to be left to the jury, and whether or not this issue has been specifically raised at the trial by counsel for the defence and whether or not the accused has said in terms that he was provoked, it is the duty of the judge, after a proper direction, to leave it open to the jury to return a verdict of manslaughter if they are not satisfied beyond a reasonable doubt that the killing was unprovoked."

[41] In this matter, the issue of provocation arose on the evidence in so far as the appellant's evidence alleged that the deceased taunted him by throwing words at him, telling him that "he hungry", "that he can't buy gas" and that "he does bull for money." Further, the appellant asked the deceased to repeat what he had said and the deceased did so. The learned trial judge therefore rightfully and correctly placed the issue of provocation before the jury.

¹³ [1957] AC 635 at page 642.

[42] Her directions were as follows:¹⁴

“So what is provocation?...If you as the finders of the facts do not accept what the accused said that he was under the type of attack that warranted the infliction of the fatal injury to protect himself, you then have to consider whether the conduct of Terrance John, the deceased was such as to cause the accused to lose his self-control. In doing so, you have to look at the accused man Marshall Phillips. What do we know about him? He’s a young man. He was working. He lived in Greiggs. You take all the circumstances together; consider the position of the accused in the setting when determining whether he lost his self-control.”

[43] Where on a charge of murder there is evidence on which the jury can find that the accused person was provoked, whether by things said or things done or by both and lost his self-control, the question whether the provocation was enough to make a reasonable man of the age and with the characteristics of the accused react as the accused did shall be left to the jury for determination.

[44] I agree with Blenman JA as she stated in **Che Gregory Spencer v The Director of Public Prosecutions**:¹⁵

“I do not subscribe to an approach that any prescribed words have to be used in giving directions.”

[45] Once the learned trial judge conveys to the jury in plain and understandable language the legal principles to be applied and further indicates to the jury the evidence which is supportive of the legal principles, then there can be no complaint attached to the summation.

[46] The learned trial judge does not have to remind the jury of every piece of evidence which is supportive of a proposition, either by the defence or the prosecution. Judges are to point out the salient features of the evidence to the jury. The Court accepts that the jurors have heard and understood the evidence and the trial judge is only required to refer to such evidence as would assist the jurors in arriving at a verdict, whatever that verdict may be. The Court, knowing that the jury has heard

¹⁴ Transcript of proceedings page 480 Appeal Bundle Vol 2.

¹⁵ SKBHCRA2009/0013A (delivered 10th February 2014, unreported) at page 21.

the evidence, must rely on their collective common sense to analyse the evidence, having been properly directed by the trial judge.

[47] In **Shonovia Thomas v The Queen**,¹⁶ Baptiste JA stated:

“Where a summation is criticized on the ground that it lacks fairness and balance one has to consider the criticisms in the context of the summation as a whole and the several issues which arose for decision. An appellate court is enjoined to look at the thrust of the directions and consider whether they have adequately put the several issues before the jury and given them a proper explanation of their task in relation to those which they have to decide.”

[48] The learned trial judge, apart from explaining what provocation was to the jury, set out the factual matrix of what the appellant indicated in his testimony gave rise to the issue of provocation.

[49] The learned trial judge applied the directions she gave to the evidence led by the appellant. She stated:¹⁷

“On the accused[’s] testimony the taunting by the deceased and the throwing of stones raises provocation. So is there evidence of a sudden loss of self-control? He says he felt angry when Romario came there and threw stones at him. He was also angry when the deceased taunted him about bullying for money, not just bullying eh, but bullying for money; you may find that that is a worst taunt than just bullying, yes. It is opened to you to find that he lost his self control although he doesn’t actually use those exact words and say I lost my self control.”

[50] The learned trial judge went further and addressed the issue of provocation on the respondent’s case.

[51] She stated:¹⁸

“On the crown’s case you must also consider whether provocation arises there as well. So even if you reject the account of the accused you still have to return to the crown’s case to see where provocation arises and whether the crown has made you sure that he was not acting under the stress or strain of provocation. The crown’s evidence is that the accused and the deceased had an argument. Hyacinth Matthews heard the deceased say “you can’t even buy gas” and she

¹⁶ BVIHCRA2010/0006 (delivered 27th August 2012, unreported) at pages 24-25.

¹⁷ Transcript of proceedings page 482 Appeal Bundle Vol 2.

¹⁸ Transcript of proceedings pages 482-483 Appeal Bundle Vol 2.

said the accused stabbed the deceased in his back; Terrance threw a stone at him which did not catch him. Hyacinth then said she spoke to both of them and told them to - in so many words – to behave themselves.”

[52] The learned trial judge clearly stated to the jury what acts or actions of the deceased the appellant complained of as constituting provocation. Once there is evidence of provocation as there was here, the burden is on the prosecution to disprove provocation to the required criminal standard. If the elements of murder are proved and provocation is not disproved the accused is entitled to a verdict of manslaughter.

[53] Here the learned trial judge properly directed the jury on the defence of provocation and of the burden on the prosecution to disprove provocation. She properly told the jurors that provocation did not only have to come from the words or actions of the deceased, but also the words and actions of his brother Romario.

[54] The learned trial judge further explained to the jury:¹⁹

“If you accept the crown’s case, you are still required to consider whether anything the deceased said or did amounted to provocative words or conduct, you’ll apply the same approach and directions I gave you. If you find the accused was not acting in lawful self defence but he was provoked go on to consider whether a reasonable man would have responded the way he did.”

[55] The learned trial judge then went on to repeat the definition of provocation and set out what the jury was to look for in the evidence.

[56] She further stated:²⁰

“Remember as I told you it doesn’t have to come only -- provocation doesn’t have to come only from the deceased it could also have come from Romario... So is it that he saw the approach of Romario coming towards him as adding to the provocation with the accused taunted him and telling him he can’t even buy gas?”

¹⁹ Transcript of proceedings pages 483-484 Appeal Bundle Vol 2 .

²⁰ Transcript of proceedings page 483 Appeal Bundle Vol 2 .

[57] But the learned trial judge did not stop there, she went on to tell the jurors that if they found the accused man was indeed provoked, they were to go on to consider whether a reasonable man would have responded as the appellant did.

[58] She properly directed the jury that if they were sure that the appellant was provoked and lost his self-control and in doing so acted as a reasonable man would have done, then he would not be guilty of murder, he would be guilty of manslaughter.

[59] She further made clear what a reasonable person was considered to be. The learned trial judge said,²¹

“A reasonable person is simply a person who has the degree of self control which is to be expected of the ordinary citizen who is sober and is of the accused[’s] age and sex.”

[60] She reminded the jury that before arriving at a decision they should have regard to all the evidence led and the facts as they found them to be.

[61] The learned trial judge went further in her directions on the issue of provocation and put to the jury the two questions which they were to consider:²²

“There are two questions which you have to consider before you [are] entitled to conclude that the accused was or may have been provoked on this occasion. First may [be] the deceased[’s] conduct, that is the things that he did, the things he said, or both...cause the accused suddenly and temporarily to lose his self-control? If you are sure that the answer to that question is no, then the prosecution would have disproved provocation and your verdict would be guilty of murder; that is, of course, providing that you find all the elements for murder are established beyond reasonable doubt.....If however your answer is yes he was acting under the stress of provocation then you must go on to consider the second question may [be] that [the] conduct [has] been such as to cause a reasonable and sober person of the accused[’s] age and sex to do as he did?When considering this question you must therefore take into the account everything which was done and or said according to the effect which in your opinion it would have on a reasonable and sober or level headed person of the defendant’s age and sex.”

²¹ Transcript of proceedings page 485 Appeal Bundle Vol 2 .

²² Transcript of proceedings pages 484-485 Appeal Bundle Vol 2 .

[62] In **Fabian La Roche v The State**,²³ the Trinidad & Tobago Court of Appeal stated:

“Provocation is some act or series of acts done or words spoken by the deceased to the accused which would cause any reasonable person and actually causes in the accused, a sudden and temporary loss of self-control, rendering the accused so subject to passion as to cause him to retaliate.”

[63] This formulation was cited with approval by this Court in **Che Gregory Spencer v The Director of Public Prosecutions**.

[64] The trial judge also addressed the issue of the appellant’s state of mind prior to his encounter with the deceased.

[65] She said:²⁴

“...you have heard that when the accused left home he was already in a vexation, he was angry. That does not mean that when he killed Terrance he was not acting under the stress of provocation...My direction to [you in law is that] notwithstanding that he was angry or upset from the beginning...he may still have lost his self control suddenly and temporarily as a result of provocative behavior...it’s a matter for you what happened. If you find he acted under provocation you will then decide whether a reasonable man of his age and circumstances would have reacted as he did...”

[66] This Court has carefully looked at the judge’s directions to the jury in the case at bar in relation to the issue of provocation and is satisfied that the learned trial judge effectively and fairly conveyed the relevant principles to the jury.

[67] She addressed the issue of provocation both on the case for the defence as well as the case for the prosecution.

[68] The learned trial judge related the salient aspects of the evidence to the legal principles in a manner which the jury must have understood.

²³ Trinidad & Tobago Cr. App. No. 32 of 2009 (unreported) at paragraph 47.

²⁴ Transcript of proceedings pages 485-486 Appeal Bundle Vol 2.

[69] The jury, by their verdict clearly accepted the case for the prosecution and rejected the defense.

[70] This ground of appeal therefore also fails.

Order

[71] The order then is that the appeal against conviction is dismissed, and the conviction is affirmed.

[72] The appellant having abandoned his appeal against sentence, the sentence is also affirmed.

[73] We thank counsel for their insightful submissions.

I concur.

Trevor Ward

Justice of Appeal

I concur.

Gerard St. C. Farara

Justice of Appeal [Ag.]

By the Court

Chief Registrar