

SAINT LUCIA

IN THE COURT OF APPEAL

CRIM.APP. NO.7 OF 1994

BETWEEN:

RUSSEL ST.PRIX

Appellant

and

THE QUEEN

Respondent

Before:

The Hon. Mr. Justice C.M. Dennis Byron

Chief Justice [Ag.]

The Hon. Mr. Justice Satrohan Singh

Justice of Appeal

The Hon. Mr. Justice Albert Redhead

Justice of Appeal [Ag.]

Appearances :

Appellant in Person

Mr. Errol Walker, D.P.P. for the Respondent

1996: October 30

JUDGMENT

REDHEAD, J.A. [Ag.]

This appellant was charged with the offense of unlawfully breaking the dwelling house of Kenneth St.Rose with the purpose of stealing contrary to section 247 of the Criminal Code of St.Lucia.

The record clearly shows that there was no evidence to support the charge of the intention of stealing in a dwelling house. The Director of Public Prosecutions has conceded that.

On the record at page 30 the learned trial Judge directed the jury as follows:

"Now for the commission of that offense, it is important that the person came there for the purpose of executing a felony that is the accused came near the house for that purpose, viz stealing. If the accused went to the place for the purpose of breaking the house but he was stopped, maybe because somebody saw him, the alarm went off, some other powers that were able to keep him off, then he is considered to have committed the crime."

This is a serious misdirection.

For these reasons, I would allow the appeal and the conviction and set aside the sentence.

ALBERT REDHEAD
Justice of Appeal [Ag.]

I Concur.

C.M.DENNIS BYRON
Chief Justice [Ag.]

I Concur.

SATROHAN SINGH
Justice of Appeal