

GRENADA

IN THE COURT OF APPEAL

Criminal Appeal No.27 of 1996

BETWEEN:

DENIS CHARLES

Appellant

and

THE QUEEN

Respondent

Before:

The Hon. Mr. Justice C.M. Dennis Byron
The Hon. Mr. Justice Albert Redhead
The Hon. Mr. Justice Albert N.J. Matthew

Chief Justice (Ag.)
Justice of Appeal
Justice of Appeal(Ag.)

Appearances:

Mr. H. Paryag with Mr. T. St.Louis for the Appellant
Mr Malcolm Holdip, Director of Public Prosecutions, with
Mr. Christopher Nelson for the Respondent

1997: July 11, 1997.

Criminal Law - Murder conviction - Death sentence - Alleged misdirection to jury on the law of intention - Whether the results of an interrogation and a statement by appellant ought to have been admitted into evidence - Allegation that they were taken in breach of Rule 2 of the Judges' Rules. Appeal.

JUDGMENT

MATTHEW J.A. (Ag.)

The appellant, aged 51, was convicted of murder on December 19, 1996 before St. Paul J. and a jury and the death sentence was pronounced upon him.

The indictment against him alleged that he murdered the deceased between March 7 and 8, 1994. The deceased, aged 76, was the husband of the appellant's mother who was buried on the said March 7, 1994. The appellant and his 26 year old daughter had travelled from England to attend the funeral and they both lived in the same house with the appellant immediately before and after the funeral.

The appellant appealed and pursued the following grounds of appeal, namely:

1. That the learned judge erred in law in directing the jury as to the law of intention.

2. That the learned judge ought not to have admitted the questions and answers interrogation and the subsequent statement made by the appellant during his detention at Gouyave Police Station on the 8th of March, 1994.

As regards the first ground of appeal the learned trial judge dealt with the issue of intention extensively at pages 2 to 4 of the record. He emphasised that the burden of proof was on the Prosecution and that it was the subjective intent of the appellant which was in question. He made reference to and read out in detail the Criminal Code as it relates to intention and in particular Section 12. He also went on to relate the facts of the case to the law of intention when at the bottom of page 5 of the record he told the jury, "*If you believe that those injuries or trauma were inflicted by the accused and they were inflicted unlawfully, would you say that he intended to kill? That is a matter entirely for you as judges of the fact.*" In my view there was an abundance of medical evidence before the jury which could have assisted them, to come to the conclusion that the appellant intended to cause the death of the deceased. I find there is no merit in this ground of appeal.

Relative to the issue of intention is the question of causation. No one actually saw the appellant inflict the injuries. The Crown relied to a large extent on circumstantial evidence. There was the scientific evidence that the blood found on the shirt which the appellant's daughter said belonged to the appellant was classified as the deceased's blood group. That shirt was found in the deceased's room. Of course, there is also the confession statement of the appellant that he inflicted several cutlass blows on the back of the deceased.

Dr. Jean Thompson found several injuries to the back and the buttocks of the deceased and she opined that they were quite serious so there is strong and persuasive evidence that the appellant caused the death of the deceased:-

In his second ground of appeal learned Counsel for the appellant challenged the admissibility of the questions and answers interrogation and the subsequent statement on the basis that they were taken in breach of *Rule 2 of the Judges' Rules*. At the time the interrogation began all the material the police had was a dead body with marks of violence, a shirt with blood on it and a cutlass.

In -our view the police had no evidence which could afford reasonable grounds for suspecting that the appellant had committed an offence. We therefore do not find they acted in breach of *Rule 2 of the Judges' Rules*. We are also not satisfied that there was any

oppression in the interrogation and taking of the statement. This ground of appeal likewise fails.

Counsel for the appellant did not effectively pursue the earlier advanced grounds of appeal based on self-defence and provocation.

The appeal is accordingly dismissed. We therefore affirm the conviction and sentence.

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

I concur

.....
C.M.DENNIS BYRON
Chief Justice (Ag.)

I concur

.....
ALBERT REDHEAD
Justice of Appeal