

ICAC v BALRAM TOOREE

2013 Intermediate Court (Criminal Division)

Cause No 746/11

POLICE

V/S

BALRAM TOOREE

Charges – Traffic D'Influence. In breach of section 10(2) of the Prevention of Corruption Act. (2 counts).

JUDGMENT

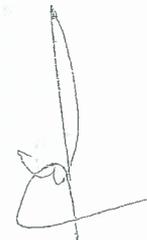
Accused is charged for the above mentioned offences under counts 1 and 2; he has pleaded not guilty and is represented by counsel.

SI Beeharry produced two out of court statements made by accused, document A and A1 refer. He also produced a list containing names which was remitted to him by accused, document B refers.

SI Dwarka produced one out of court statement made by accused, document A2 refers. He also produced a diary which was secured from accused, document C refers.

SI Naiken produced four out of court statements made by accused, documents A3, A4, A5 and A6 refer; he also explained that accused identified George Ferdinand as being the said George Mootosamy he mentioned in his statement; the said Ferdinand was not a police officer and has never worked at Line Barracks. In cross examination, he said that Ferdinand had no influence at the traffic branch. Accused was being prosecuted only for two counts; for having remitted money for himself and for Mrs Sangitee Tooree to the said Mootosamy; but both of them were not granted any licence. Accused acted as an agent for the said Mootosamy towards other persons; he disclosed the name of those other persons in his statements and most of those are subject to cases pending prosecution. Georges Mootosamy has already been prosecuted.

PS Luximon posted to the licensing unit of the traffic branch explained the procedures to obtain a licence.



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Defence did not adduce any evidence and at the end of the case prosecution moved to amend the information; defence objected; arguments were offered; a Ruling was delivered; the amendment was allowed; the case was reopened; information was read anew; the accused maintained his plea of not guilty; defence was given the possibility to have witness recalled for cross examination; defence opted for no further evidence and the case was closed.

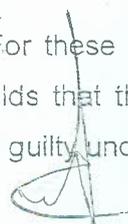
The case for the prosecution contains a number of irrelevant matters; a clear example can be seen in the statements given by the accused which contain a number of matters which are irrelevant to the present case; I therefore address my mind to all what is relevant and admissible for the purpose of this trial. There is also the evidence of PS Luximon who has clearly explained the procedures for obtaining a driving licence and it is clearly established, in his out of court statements, that the accused did not comply with those procedures.

The version of accused can be seen in his out of court statements; among other things said, accused made a full confession; he explained how he remitted Rs 1,800 to Georges Mootoosamy with a view that latter to use his influence to facilitate the accused to obtain a driving licence for lorry. He also explained how he gave Rs 2,500 to the said Georges Mootoosamy with a view for latter to use his influence to facilitate his wife, Mrs Sangitee Tooree, to obtain a driving licence for latter.

"An adverse admission relevant to the issue of guilt may be admissible in criminal cases as a confession. In order to be admissible the prosecution has to show that the confession had been made voluntary..." per Lord Sumner in the case of **Ibrahim v R (1914) PC**. The out of court statements of accused was not challenged and it was also made and recorded in accordance with the provision of our law. I therefore hold the admission of facts made by the accused in his out of court statements to be valid. The statements clearly establish the guilt of accused in respect of both charges.

Counsel for the accused has lengthily offered submission on the alleged immunity which accused should have benefitted and I reiterate my findings delivered in a previous ruling on that issue.

For these reasons and after having considered the submission of both counsels, this court holds that the prosecution has proved its case beyond all reasonable doubt and I find accused guilty under both counts.



Mr Vijay Appadoo

Magistrate Intermediate Court (Criminal Division).

Delivered on 09.12.2014.