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IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 23/74

BEFORE:           The Honourable Mr. Justice Edun   - Presiding  
                  The Honourable Mr. Justice Hercules  
                  The Honourable Mr. Justice Robinson

ROXROY SIMPSON v. RECINA

Mrs. M. McIntosh                           for Applicant

Mr. B. MacCaulay, Q.C.)  
Mr. R. Stewart                            ) for Crown

JUNE 5, 1974

HERCULES, J.A.:

This is an application for leave to appeal against conviction in the Home Circuit Court on the 29th January, 1974. The Applicant was convicted of the murder of Neville Johnson on the 11th October, 1972.

The evidence was fairly voluminous but in the main it came from three Crown witnesses, all of whom testified to the effect that they saw the Applicant stab Neville Johnson with a dagger. It would appear that there had been some altercation previously between Neville Johnson and the daughter of the Applicant and both the Applicant and his daughter were tried on the indictment. The Applicant denied having anything to do with the killing of Neville Johnson and his daughter in one breath was saying inter alia that she stabbed Neville Johnson.

The learned Chief Justice summed up the case in some seventy pages. He dealt with all the law that he considered applicable in the case and he dealt with the facts of the case in the greatest detail. We have found the summing-up impeccable. In our view all the issues that should have been left to the jury were fairly and clearly left to

then.

Mrs. McIntosh today has sought to impugn the verdict on three grounds. In spite of her valiant efforts, we could not help noticing that her arguments on the three grounds were put forward with her tongue in her cheek. We appreciate the difficulties, for we find there is absolutely nothing to complain about in the summing-up of the learned Chief Justice and in the verdict of the jury, having regard to the evidence. They were clearly left with three factors: the evidence of the Crown witnesses that the Applicant did the stabbing, the evidence of the daughter that she did it, and the evidence of the Applicant that he knew nothing about it, he didn't do it, he wasn't there, he merely looked in on the scene and went off to the police station. Well, the jury elected to accept the evidence of the three Crown witnesses who said that the Applicant did the stabbing. They did this in spite of numerous contradictions and discrepancies, to all of which the learned Chief Justice alerted the jury. It was therefore open to the jury, since it was evidence that was capable of being believed, to find on the evidence of the three Crown witnesses that it was the Applicant who committed the act.

Mrs. McIntosh further sought to impress this Court that there were misdirections resulting from non-directions. Without attempting to analyse her argument in any detail, we feel obliged to say that we do not find that there was any merit in the arguments in support of any of the grounds and in the result we refuse this application for leave to appeal.

EDUN, J.A.: The application for leave to appeal is refused.