

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NOS. 124, 125 & 126/88

COR: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MR. JUSTICE DOWNER, J.A.

REGINA

Vs.

IAN CHUNG
DWAYNE HYLTON
DENNI WILSON

Delroy Chuck for Chung

Jack Hines for Hylton

Berthan Macaulay, G.C. for Wilson

Lloyd Hibbert & Lancelot Clarke for the Crown

13th, 14th, 15th March &
16th May, 1990

CAREY, J.A.:

At the conclusion of the submissions on 15th March, we announced that we had treated these applications for leave to appeal as the hearing of the appeals which we then dismissed. At that time we intimated that we would put our reasons in writing and we have now done so.

On the 20th May, 1988 in the Manchester Circuit Court held in Mandeville Before Morgan J and a jury, these appellants were convicted of the murder of a young taxi driver, named Christopher Prince, and sentenced to death.

This was a gruesome and brutal murder, coldly and callously executed by these appellants. Their victim was stabbed several times all over his body and there were in all

thirteen major wounds some quite hideous. The pathologist described one of those wounds in these words:

"The next wound going down, was a large wound, very large, very deep, in the epigastrium, the upper abdominal muscle, just below the chest bone, we call it.

Some call it solar plexus. There was a large gaping wound there. It had a lot of width extending almost from the rib cage costal margin from either side, right across. The edges of this wound was smooth, not jagged as compared to the other wounds."

With respect to another injury, he stated as follows:

"The wound to the neck extended from one end of the mandible to the other side of the mandible right across the neck, cut through the muscles of the neck, blood vessels, trachea; and in effect the neck was only being held by the spinal cord at the back."

Five of the wounds, according to the pathologist, could have been fatal viz., those wounds which involved the lungs, the kidney and the neck. Two knives were used to inflict the injuries, one of which described as a "Rambo knife" had a blade sharpened on one edge but serrated along the other, while the second knife was sharpened along both edges. The lower posterior half of the body of the victim showed bleaching as if it had been burnt. Indeed, as the evidence disclosed, the slain man who had been flung half-dead into a kaolinite mud-lake in the course of the attack, managed to crawl out but was then set upon once more, when the injury to the neck was inflicted. He was then returned to the mud-lake. The caustic soda therein caused the bleaching of the body of which the doctor spoke.

Essentially, the Crown's case was founded on cautioned statements made by each of the appellants which after

a voir dire, were admitted in evidence. There were also oral incriminatory statements made by the appellant Chung to a police officer in the course of interrogation. The case was supported also by the evidence of two witnesses, one Patrick Pryce who was originally indicted with these appellants on this charge but against whom no evidence was eventually offered at the commencement of the trial. He testified as to the movement of these appellants on the day of the murder. The other witness was Elizabeth Collins who testified as to incriminatory statements made by the appellant Denni Wilson and also as to his presence behind the steering wheel of the slain man's car on the date of the murder.

We can now give in somewhat more detail, the facts presented before Morgan, J and the jury in support of the charge. Sometime before midnight on 6th July, 1986, Patrick Pryce saw Prince pick up the appellants at Tracks Disco in Mandeville, Manchester and drove off with them. That was the last time Pryce saw him alive. His body was recovered from a bauxite red mud-lake on 7th July at about 10:30 a.m., Pryce later saw the car in Sesame Street, Mandeville. Along with the appellants, he entered the car which was driven by Denni Wilson to certain places and thereafter into Kingston. In the course of the journey he became aware of a peculiar odour in the car and enquired about it. Chung said that someone died but gave no other detail. In the glove compartment of the car he also observed two knives, one of which was a survival knife popularly called a "Rambo" knife. He had seen one similar to that in the possession of Denni Wilson. The blade, he noticed, was bent, and on the blade towards the handle there appeared to be red mud. So far as the condition of the other knife was concerned, it appeared to have the same

sort of substance on it. He returned to Mandeville by himself leaving the appellants in Kingston. The reason he gave for returning to the country on his own, was that Chung had threatened to kill him or members of his family if he were to volunteer information to the police that he had been taken in the slain man's car to Kingston. Indeed, there were other threats on his life made to him by Chung subsequently.

Elizabeth Collins was the other material Crown witness. She lives in Mandeville and did so on the 6th July. On those premises also live, Denni Wilson and Dwayne Hylton. On that day between 4:00 and 5:00 p.m., she saw Christopher Prince who drove out of the premises in his taxi with Denni Wilson. Round about 1:00 or 2:00 a.m., she was awakened by the sound of a motor car engine idling. Looking out, she saw Denni Wilson around the steering wheel of the taxi. There were other persons in the vehicle including Stephen Wilson, but those she did not recognize. The car was driven away. On the Saturday before these events, viz the 5th July, while she was ill at home she overheard voices in an argument at the house and recognized one of the voices as that of Denni Wilson. He was saying - "the only way to get a car is to kill a man." On Tuesday 8th July she saw both Denni Wilson and Dwayne Hylton at the market. Because of what she had previously overheard, she enquired of Wilson - who had told him and Stephen Wilson to kill Christopher Prince? His response was "So mi hear." Counsel who appeared below for this appellant in an endeavour to counter the adverse implication of this evidence, suggested to the witness that the appellant's response to Miss Collins' query was in fact - "are you crazy?" The suggestion was emphatically rejected however.

On 29th August, the police interviewed this appellant Denni Wilson. He was told after being cautioned that the police had reason to believe that he had assisted in the murder of Prince. He was also told that his "Rambo" knife as well as that of Ian Chung, and a "non-schucker" an instrument used by persons who practice karate had all been recovered. The officer noted him as saying -

"Mr. Bennett, I know you are no fool and I won't try to undermine your intelligence. I know I may not get out of this, I am probably going to hang, but Mr. Bennett, my brother is not in this, he and Patrick were not there. I am sorry for Stephen. I figure you choose to talk to me last because you know that I am guilty. I hope Stephen will get off and be able to make a new start. I won't be there to care for him, I cause him to be in this. Is only three of us were there, me, Ian and Dwayne, Chris, Stephen and Patrick are innocent. I guess you are going to give me a chance to explain; I am going to tell you everything from start to finish. I don't want Stephen to be charged with murder."

On 30th August, it was the turn of Dwayne Hylton to be interrogated by the police. After being cautioned, he said that he had been threatened by Chung and Denni Wilson. He was present when the killing occurred. He had been given the non-schucker to garrotte Prince. He was willing to give a written statement and in the event, did as he promised.

On that same date, the police also interrogated Chung. Upon caution, he said that the plan was for everyone to keep silent but everyone else had talked, placing all the blame on him. His only act was to mark his knife across the slain man's chest. He too expressed his willingness to provide a statement in writing, a promise he eventually fulfilled.

We can now summarize the cautioned statement of each of these appellants. First Denni Wilson - He said that despite his efforts to achieve something in life, he had failed but felt the strongest desire to migrate. With Stephen (his brother) Ian Chung, Dwayne Hylton and Patrick Pryce, he planned to stowaway on a ship which was scheduled to sail on Monday 7th July. They decided to abduct Prince and steal his car. As part of the plan he chartered the car on the pretext of conveying two of his friends to their homes. Instead, they went to an address in Mandeville, 17B Old Greenvale Road where he, Dwayne Hylton and Ian Chung collected their clothes. They then set off in the car driven by their victim to Dunrobin Avenue which was the place selected for the abduction exercise where he changed his mind and advised Chung but Chung was adamant. Shortly after this, when he heard as if the driver was being choked, he did the following acts -

- i) he put the car in neutral and stalled it.
- ii) he went around to the driver's side;
- iii) he removed the driver from the car and ordered him to refrain from calling his name.

In the struggle, Ian Chung stabbed the driver. While he went to switch off the headlights, the others threw the body on the bank at the side of the road. He instructed them however to place the body in the trunk of the car. He drove the car to the mud-lake in order to dispose of the body. Everyone thought Prince was dead. After the lake was tested to ensure that the body would sink, all of them threw the body in the lake. As they were about to leave, he heard splashing in the vicinity of the spot where the body had been tossed. He told the others that Prince was not dead. He ordered them to remain in hiding and he went and placed

the car out of sight. On his return, he saw Prince emerging from the mud-lake and chased him. Prince pleaded for his life but Chung stabbed him and cut his throat. Chung also ordered him to stab Prince and he complied by stabbing him in his heart. The blade of the knife became bent. He checked for vital signs but Prince was dead. The body was again thrown into the lake. Subsequently, they made efforts to stowaway but were discovered and fled. They eventually went to St. Ann but he spoke in his sleep and everything came to light.

This statement, if accepted by the jury, was overwhelming proof that this appellant was a principal in the first degree to the murder of the unfortunate Prince. No one sought to say otherwise.

With respect to Ian Chung's statement, he stated therein that he was part of a plan to stowaway with Denni Wilson, Denni Wilson, Stephen Wilson, Dwayne Hylton and Patrick Pryce. He engaged Prince who had a cab to take them to Kingston by lying to him that he had \$190.00. They took the cab. At some point in the journey, Denni Wilson handed Dwayne Hylton "a wire thing" (presumably the non-schucker). Denni Wilson gave a signal to Dwayne Hylton who placed wire around Prince's throat. Wilson stopped the car on the instructions of Denni Wilson. He covered Prince's mouth with his hand to prevent Prince's cries. Wilson ran to the other side of the car where he opened the door, dragged Prince from the car and stabbed him. Denni Wilson told him to cut Prince's throat but he "marked his knife on his chest for (he) did not want to kill him." The others put the injured man in the back seat of the car where he was. Prince was feigning as if he were dead. He asked

Denni Wilson where he was going to dispose of the body, and was told in the mud-lake. When they arrived at the lake, they took Prince from the car to a spot beside the lake. Denni Wilson gave the order to throw Prince in the lake. The order was carried out. He saw Prince raise his head and put it back in the lake. Denni Wilson who had also seen this act, said "that f.....think him smart." While Dwayne Hylton was positioned in one spot, he was placed elsewhere and told to wait. Denni drove the car off. From his position, he saw Prince lift his head and crawl from the lake. At this point, Denni Wilson ran down Prince and while Denni Wilson used Chung's knife to stab Prince all over his body, Dwayne Hylton used Wilson's knife to stab Prince in his back. Denni Wilson cut Prince's throat and also pushed the knife into Prince's heart so much so the point bent. They then placed the body in the trunk and again threw it in the lake at a spot where they felt it would sink.

On 8th July they tried to stowaway but were discovered and fled. In Hopewell in St. Ann, Denni Wilson spoke in his sleep. The police were called in.

Again, on this statement, if accepted by the jury, there was ample material upon which the jury were entitled to find that this appellant was present aiding and abetting the commission of murder. His statement, that he marked his knife on the slain man's chest is confirmed by the medical evidence, for only one "mark" was in fact found in the region of the chest. But what a "mark" that was! The jury were entitled to hold that that "mark" on the victim's chest was the very large deep wound that extended from one side of the rib cage to the other in the epigastrium. This was one of the wounds which could have proved fatal because it punctured

the heart at its base.

Finally we come to the cautioned statement of the appellant Dwayne Hylton also referred to as "Chris". He stated in substance that a plan to stowaway was always under discussion between Denni Wilson, Stephen Wilson, Patrick Pryce and himself. On 6th July, 1986 Denni Wilson said that he knew of a ship on which they could stowaway but it necessitated going to Kingston. The question of transportation thither came up. Denni Wilson suggested hiring a car. Later Chung who was always involved in the plan joined them at another place in Mandeville where further inconclusive discussions took place. There were further discussions on the matter of the cost of hiring a cab and Denni Wilson suggested getting Prince's car by fair means or foul. Finally Denni Wilson told Prince he would hire his cab. Denni Wilson's plan called for Ian Chung, Denni Wilson and Dwayne Hylton taking the cab with some other men, and after these men were dropped, at a place to be chosen, they would all knock out Prince and tie him. Denni Wilson handed him his non-schucker. The plan was executed. Denni Wilson gave a signal and then he held Prince with the non-schucker. Denni Wilson stopped the car, ran around to the driver's side and pulled Prince out from his grip. Denni Wilson used his 'Rambo' knife to stab Prince. He queried the reason for stabbing Prince but was told to shut up. Denni Wilson and Ian Chung put Prince in the car beside him. Wilson then drove to the mud-lake into which Prince was thrown. He watched, The car was driven off but Wilson said he would return to make sure Prince was dead. They all ran back to the lake during which time Chung's knife fell. Prince was begging for his life.

Chung told him to search for his knife which he did. He was instructed to stab Prince but as he stood there observing the proceedings, Chung removed the knife from his grasp and stabbed Prince. He remained there while the other man stabbed Prince to death. Chung and Wilson finally threw Prince into the lake. Subsequently Chung threw the knife and the non-schucker into a pit toilet. On 10th July while they were in St. Ann Denni Wilson spoke in his sleep and the police were called.

With respect to this cautioned statement, the jury were entitled to find that this appellant was also present aiding and abetting the commission of the murder of Prince. He was aware of the plan, and he took part in its execution. First he used the non-schucker to garrotte the victim and having observed the infliction of stab wounds on the victim, later searched for the knife used by Chung and had it available for further use. We would add that on his statement, his role was a minor one.

Denni Wilson, in accordance with forensic practice in this jurisdiction, gave an unsworn statement. He told the learned trial judge and the jury that he did not kill Prince and he was not implicated in any plan to kill Prince who was his friend.

On the 6th July, he was at a discotheque with friends. He left in a cab driven by Prince and with him were Chung, Hylton and others. He was left at home and never saw Prince for the rest of the night. He spoke of his arrest and of being tortured to induce him to sign a statement but he refused. Finally he gave a statement as to his whereabouts on the night of 6th July in the presence of a Justice of the Peace. At the preliminary examination, his lawyer showed

him a copy of his statement but he denied that that document was the statement he had given although it bore his signature.

Ian Chung also followed the usual practice of making an unsworn statement. He said he was at the Planet Disco which he left at about 11:30 p.m. He was taken home by Prince in his taxi with others including the other appellants. That was the last time he saw Prince.

On 21st August he gave a statement to the police and was later detained. On 30th August he was taken to Area 3 Headquarters where certain police officer placed a statement before him for his signature. He refused to sign it. He was shown statements allegedly made by the other appellants. He read a part of one of these statements. He spoke of police beatings. Finally he signed a statement to avoid further beatings. He further said that subsequently a Justice of the Peace was called who read his statement and signed it.

Finally, the appellant Dwayne Hylton in his unsworn statement said that on the night of 6th July, 1986 he was at the Planet Disco which he left at about 11:30 p.m. He went home in Prince's taxi with other friends. He did not see Prince that night or any other night.

He too spoke of police third degree procedures on him to force him to give a statement which he did not give. A subtler method was then tried. A police officer promised that if he gave a statement he would be released. A Justice of the Peace was called. A statement was read to him and he signed as he was bade to do. The Justice of the Peace also signed. He was not released. He also denied killing Prince and said he was never in any plan to do so.

The pattern of the defence was similar in each case.

Each appellant charged the police with torture and accused each of the Justices of the Peace with wrong-doing. We note that the defence in cross-examination of the Justices of the Peace never put forward the version to which the appellants gave utterance. It is not surprising that the jury returned the verdicts they did. They must have rejected the suggestion of three dishonest Justices of the Peace in their parish.

The appellants did not venture any argument that the verdicts were unreasonable and could not be supported having regard to the evidence. In the case of Denni Wilson, three solitary grounds were advanced on his behalf by Mr. Macaulay, one from the original grounds and two additional grounds in respect of which leave was granted. As filed, the grounds were in the following form:-

From the original Grounds of Appeal -

"5. My case was not described with sufficient clarity by the Learned Trial Judge as to make it distinguishable from the cases of my co-accused."

From the additional Grounds of Appeal -

- "1. That the Learned Trial Judge mis-directed the Jury as to the effect of statements not on oath by one accused person implicating another as being evidence against that other, though not made at the time of the act or immediately before or after thereof AND not in furtherance of the alleged common design
2. That having regard to the admissible evidence, the verdict of the Jury cannot be supported."

These grounds were argued en bloc. We were first referred to a dictum of Lord Lane, L.C.J. in R. v. Marr -
The Times 14th June, 1989 which we quote -

"It was however, an inherent principle of our system of trial that however distasteful the offence, however repulsive the defendant, however laughable

"his defence, he was entitled to have his case fairly presented to the jury by judge and counsel.

Indeed, it was probably true to say that it was just in those cases where the cards seemed to be stacked most heavily against the defendant that the judge should be most scrupulous to ensure that nothing should take place which might exacerbate the defendant's difficulties."

Learned counsel said that this was such a case and the learned trial judge did nothing to ensure that the appellant was not prejudiced and indeed directed the jury in a manner which might have exacerbated his difficulties. Our attention was drawn to P. 475 and P. 501 of the transcript and we set out the relevant extracts hereunder: At (P. 475) the learned judge reminded the jury as to evidence given by the witness Pryce. She said this -

"He says also he saw a knife in the glove compartment of the car, between the two front seats, and another knife, two knives, one what he calls a survival knife, a rambo knife, and he described the knife and he said he had seen that knife before with Denni, which is the knife he saw in the car, and on that knife he saw red thing looking like mud from the blade up to the handle."

At P. 501 in isolating the significant evidence against Wilson, she repeated the error - "that in the pocket of the car what is called a survival knife belonging to him was seen."

Mr. Hibbert has candidly conceded that the learned trial judge had indeed misquoted the evidence.

We have ourselves examined the actual evidence given by the witness and we are satisfied that in examination in chief the witness had stated that he had seen a knife in the glove compartment of Prince's car, which he had at an

earlier time seen in the possession of Wilson. But under cross-examination, he said that he had seen a knife similar to that in the glove compartment in Wilson's possession. The question is therefore what is the effect of that misquotation by the trial judge.

The evidence against Wilson did not rest wholly or substantially on Pryce's evidence that a knife similar to that in the car and probably seen on an occasion prior to its observance in the car. The ownership of the knife which was used to kill Prince was not of the slightest significance. The evidence of substance against Wilson, in our view, was to be found in his own statement to the police. But there was indeed other evidence confirmatory of the fact that it was indeed Wilson's knife which was one of the knives seen in the car, and that it was used in the murder of Prince. Pryce had said that the point of the knife he observed in the car was bent and showed signs of red mud. When Wilson was told that his knife had been found and he was one of persons involved in the murder of Prince, his statement then to the police officer amounted to an acceptance that his knife had been used in the murder. In his cautioned statement he stated as well that he had seen a stab inflicted when the knife was bent.

We conclude that the misquotation of the evidence paled into insignificance in the overall context of the case which we have said was a powerful one. The jury, of course, heard the evidence of the witness and were not obliged to accept the trial judge's statement of the facts. We are not to be taken as suggesting that a misquotation of evidence by the trial judge should be lightly dismissed. But in the circumstances of this case, for the reasons we

have given we do not think the misdirection exacerbated the appellant's difficulties nor caused any miscarriage of justice.

Mr. Macaulay next submitted that there was a misdirection in law with regard to the effect of an extra-judicial statement made by the appellant Hylton in relation to Wilson's "Rambo" knife, in the absence of the appellant Wilson which implicated him. That statement, he contended, was not made in furtherance of the alleged common design, and accordingly inadmissible.

The impugned direction appears at P. 505 and is in the following form -

"Now the other thing is, this morning I think I told you that when Hylton went for the knife Mr. Kentish gave him the knife. He said it was a rambo knife, and he told the officer that it was belonging to Denni the accused. I did tell you that it was not evidence against Denni, but it is not so. The Crown is relying on common design which means that whatever evidence one gives in respect of the other is evidence which you can use. The other thing I told you was, when Denni says that it was three of them, himself, Ian and Dwayne, three of them were there, that is evidence that you can use if you accept it."

Prior to this direction, the learned trial judge had given perfectly correct directions as to the effect of such statement made in the absence of the party implicated. In the following passage the trial judge is reviewing the evidence of a police officer who had interviewed the appellant Hylton. She said this at Ps. 495, 496:-

"Arising from the interview with Hylton and the statement that he gave, Hylton went with him and "Hylton pointed out a Mr. Kentish to me" and told him that Kentish

"had the knife and that he was referring to a rambo knife and he had told him that it was belonging to the accused Denni and that it was one of the knives used to kill Christopher Prince.

Now Madam Foreman and Members of the Jury, Denni was not there and it is in the absence of Denni that he is making this statement that it belongs to Denni. You cannot use it as evidence against Denni. You can only use it as evidence that Hylton took this knife and said 'See this knife, this knife is one of the knives that was used to kill Chris'."

The rule which the learned trial judge mistakenly invoked was wholly inapplicable to the circumstance with which she was dealing. The rule as we understand it is that the acts and declarations of any conspirator in furtherance of the common design, may be given in evidence against any other conspirator. The rule applies whether there is a count for conspiracy or the charge is an attempt to commit the offence or the full offence. R. v. Shellard (1840) 4 St. T. (N.S.) 1386; R. v. Blake (1844) 6 Q.B. 126, R. v. Meary (1867) 10 Cox 506. In the present case, the statement attributed to Hylton was that when the "Rambo" knife was found, he said it was Wilson's. But the statement was not made in furtherance of the common design to kill Prince; it was made after the common design had been achieved and did not relate to any act done for example to avoid detection, apprehension or the like. It was merely a statement incriminatory of Wilson and came within the caveat given by the trial judge at P. 496 which we have already set out and which Mr. Macaulay properly acknowledged as being correct.

In our view the complaint of Mr. Macaulay is well founded and the directions therefore amounted to a misdirection. We have already dealt with the learned judge's

misapprehension of the evidence regarding the "Rambo" knife. It is, we think, sufficient to point out that there was other evidence on which the jury could conclude that Denni Wilson had used a knife to inflict injuries on Prince which caused his death. We have indicated the basis for that view and we do not think it is necessary to repeat what we have already said. Despite the learned trial judge's misdirection on this point, we do not think it was of particular significance in the totality of the evidence. There was no miscarriage of justice. We would accordingly apply the proviso in respect to this point which we have decided in favour of the appellant.

With regard to Ian Chung, Mr. Chuck put forward and argued a solitary ground of appeal that the trial judge was wrong in law in failing to leave the issue of manslaughter to the jury on the basis of lack of intention. Counsel for the Crown was entitled to put in evidence the admission of this appellant that he had marked his knife on the chest of the slain man "for I didn't want to kill him." (See P. 341 of the Record) but this admission comprised all the elements of murder except the intention to kill. The admission, he said, constituted the offence of manslaughter. There was therefore a duty upon the trial judge to leave that issue to the jury.

We do not think there can be any doubt that a trial judge is obliged to leave all defences which arise on the facts in a case to the jury, whether or not that defence be raised or whether it arises directly or indirectly. But that means that there must be facts which prima facie can be identified as making that defence possible before the obligation on the part of the judge to leave the

issue, arises. If authorities are wanted for this trite proposition, see for example R. v. Bullard (1957) AC 635, R. v. Kachikwa 52 CR. App. R. 538. The test is not whether an indulgent judge might be disposed to leave the issue to the jury but whether there are facts fit to be left for the jury's consideration. In this court, the onus is on the appellant to identify the evidence.

The facts referred to by Mr. Chuck as raising the issue of manslaughter are but part of the facts in the case. The "mark" made on the chest of the victim, was a serious and fatal injury inflicted on him. We would remind of its seriousness. It was a large gaping wound in the epigastrium extending from one side of the rib cage to the other. In our view, where a man uses a knife to inflict such an injury, we are quite unable to appreciate how his assertion that he did not want to kill his victim provides evidence fit to be left to the jury that when he inflicted the injury he did not intend to kill or cause serious injury. We think this ground is without merit.

Learned counsel on behalf of the appellant Dwayne Hylton also put forward a ground similar to that put forward by Mr. Chuck. We record below the ground as filed:--

"1. That the learned Trial Judge erred in law in that she failed to leave to the Jury the alternative verdict of Manslaughter. In particular it must be noted that the Crown relied critically and substantially on the Caution Statement of the Applicant and the Applicant in that Statement neither generally nor in any particular showed an intention to kill or to do grievous bodily harm nor is there anything in the Caution Statement from which the Jury could reasonably infer such an intention and the Jury may have therefore returned the alternative verdict if it was left for their deliberation."

Learned counsel was quite unable however to refer us to the evidence on which the issue of manslaughter arose. He conceded as well that there was no evidence in the statement which shewed that the appellant had withdrawn himself from the common design to murder. He referred us to R. v. Collin Johnson (Unreported) S.C.C.A. 89/85 dated 19th June, 1987 where the court held that the out of court exculpatory statement of an accused person is not evidence of the contents except insofar as the statement contains admission against interest. R. v. Trevor Lawrence (Unreported) S.C.C.A. 111/88 dated 10th July, 1989 dealt with the differing legal consequences depending on whether an accused

- (a) put forward a defence inconsistent with the statement, having denied making the statement altogether;
- (b) remained silent in answer to the charge;
- (c) admitted some parts of the statement in his defence.

We do not think it is necessary to say anything further in this regard. It is sufficient to say that the cautioned statement provided adequate material on which the jury could return the verdict they did. We have already reviewed the evidence against this appellant and do not propose to repeat what we have already said.