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IN THE SEYCHELLES COURT OF APPEAL

CLIFFORD LUCAS

APPELLANT

V.

THE REPUBLIC

RESPONDENT

Criminal Appeal 17/96

Before: Goburdhun P., Ayoola & Venchard JJA

Mr. Juliette for the appellant

Mr. R. Kanakarathne for the respondent



JUDGMENT OF THE COURT

The appellant was prosecuted before the Supreme Court for the offence of murder (contrary to section 293 of the Penal Code). He pleaded not guilty to the charge and was defended by counsel. The jury unanimously found him guilty of the offence and the learned presiding judge sentenced him to life imprisonment. He is appealing against his conviction on the following grounds:

1. The Learned Chief Justice erred in failing to address the jury properly and fully on the testimony of Superintendent Paul Bedier in that the testimony of Superintendent Paul Bedier was vital to the case and there were inconsistencies raised which should have been addressed to the jury.

2. The Learned Chief Justice usurped the function of the jury and unduly (sic) influenced the jury into accepting Superintendent Paul Bedier's testimony and expertise.

3. The Learned Chief Justice wrongly addressed the jury on the issue of the Appellant's statement and impliedly directed the jury that the Appellant told lies in his statement.

learned presiding Justice failed to put across the case for the appellant to the jury adequately. He also complained that the summing up was biased in favour of the prosecution. We are unable to agree with his criticism. It is not the duty of a judge to put to the jury each and every point made by defence counsel. It is up to counsel to put across everything in favour of his client to the jury. The judge has to put both the case for the defence and the prosecution fairly to the jury. In this case learned counsel for the defence put across fully each and every point in favour of his client. Counsel's speech to the jury must have been still fresh in the mind of the jury when the learned presiding judge addressed the jury. In his summing up, the learned presiding judge said everything that should have been said. A judge is entitled to express his own views on the evidence provided he makes it clear to the jury that it is always open to them to accept or reject his opinion. This the learned presiding judge did more than once as the following passages from his address to the jury would show. At page 319 in the 2nd para. "you are the one to decide the case and so what I may think about it, whatever opinion I may have - is irrelevant and at page 333 "I have told you that I personally think he (meaning Superintendent Bedier) is an expert but it is not my opinion which counts - you have to decide this case."

The learned presiding judge when presenting the case for the defence referred to the speech by defence counsel. At page 311 of the brief he said - Mr. Juliette told you the case for the prosecution was very weak ... and expressed surprise that no prints of the accused were found in the bedroom. He told you that you could not rely on the evidence given by Superintendent Bedier because Bedier himself was unsure of the comparisons that he had carried out in the charts, that is why he had to seek the opinion of his

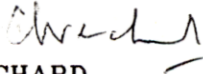
Grounds 3 and 4 are devoid of any merit. The appeal fails and is accordingly dismissed.



H. GOBURDHUN  
PRESIDENT



E.O. AYoola  
JUSTICE OF APPEAL



L.E. VENCHARD  
JUSTICE OF APPEAL

Dated this 30<sup>th</sup> day of October, 1996.