

ROYAL COURT
(Samedi Division)

15th February, 1993

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Before: F.C. Hamon, Esq., Commissioner and Jurats
Vint and Blampied

Police Court Appeal

Stephen James Ward

-v-

Her Majesty's Attorney General

Appeal against conviction on one charge of possession of a controlled drug (cannabis) under Article 6 (1) of the Misuse of Drugs (Jersey) Law, 1978.

Advocate R.J. Renouf for the Appellant
S.C.K. Pallot, Esq., Crown Advocate

JUDGMENT

THE COMMISSIONER: Mr. Renouf has raised a doubt in our minds as to whether or not the defence set up by Mr. Ward is to be believed.

The facts of the case are quite simple. The appellant broke down in his rather dilapidated van and was helped in a difficult situation by two police officers. During the course of helping him one of the police officers, but not the other, noticed a Rizla packet of cigarette papers with the cardboard top torn away. From his experience of drug offences the police officer realised that the tearing off of a piece of cardboard from a Rizla packet is often a sign that the cardboard is being used by those who are in the habit of smoking cannabis cigarettes because it appears that the cannabis gets extremely hot and has to be held by the cardboard. We note in passing that the Rizla packet was not produced in Court at any time. Nothing hinges on that, because the police officers carried out a search of the van, which revealed, in a latched cupboard, a crumpled up Embassy packet with some filter tip cigarette ends and some roach ends stuffed into it. The Embassy packet was crumpled up and was placed at the back of some jars, right at the back of the cupboard.

Now, when he was arrested, the appellant made a strange statement at 10.33 in the evening of 3rd September, 1992. What he said was this:

"I just hope it doesn't happen to anyone else in my situation who is innocent. I have read in the papers that the British Government is making and testing on youth pills called love hearts which are a substitute to ecstasy but it is not alright for people to smoke a natural herb. That's how corrupt this society is getting".

That, as I say, appears to us to be an extremely odd statement for anyone to make at the best of times. But, we have to remember the circumstances in which it was made and we have to note that there is a declaration of innocence by Mr. Ward at the time that he made it.

He also said other things during the course of the trial in that he candidly admitted that he had smoked cannabis in Holland, some years ago, but he had not smoked cannabis in Jersey.

His defence was quite straightforward, it was to the effect that from time to time he gave lifts in his van to hitch hikers from St. Ouens Bay into town. It was assumed by him that during the course of that journey, the hitch hikers had smoked the cigarettes, the cannabis cigarettes, and then rather than have them in their possession when they came into town, or leave them on the van floor where they might have been discovered with other discarded débris, they crumpled up the Embassy packet with the roach ends and the cigarette butts in it and stuffed the packet at the back of the cupboard.

The learned Magistrate, in his brief synopsis of the evidence that he had heard, said that the explanation about the hitch hikers, in his opinion, did not ring true and the inability to give any sort of identification was in itself suspicious. But, it is the whole essence of hitch hiking, it seems to us, that one does not necessarily know the people to whom one is giving lifts and in any event the questioning of Mr. Ward took place some three months after the events had occurred; this through no fault of anybody in particular.

We have listened very carefully to what Mr. Pallot has said but we are rather perturbed by the statement of the learned Magistrate, which occurs at page 27 of the transcript which reads:

"But, what causes greatest doubt to be thrown on his explanation is his statement that what happened was... that the hitch hikers had tipped their rubbish in the back of the van. Well, if that is so, if they had tipped their rubbish in the back of the van, it is impossible to see how the roach ends could have found themselves in a cupboard above the sink unit where the accused kept his food stuff."

We must say that we think that the dealing with the evidence in that way is somewhat trite. What the accused actually said at the Police Court on this particular point is found on page 18 of the transcript. In answer to the question from his counsel, "How do you account for that packet getting in the cupboard?" he said:

"Possibly any people I take home often leave, like, chip papers, coke cans, and things like that and débris in the back and possibly them putting it in the back of the van".

It does seem to us a somewhat illogical leap of thought to say that, because of that statement, the hitch-hikers were virtually bound to have thrown the crumpled Embassy packet onto the floor of the van, and would not have put it in the back of the cupboard.

We appreciate all that Mr. Pallot has said but we have to remind ourselves of the very high standard of proof that is required, which is: beyond a reasonable doubt. If the standard of proof had been the balance of probability, we might have reached a different conclusion, but the standard of proof is beyond a reasonable doubt, and we have a doubt in our minds, and therefore, we allow the appeal.

No Authorities