IN THE COURT OF APPEAL

R.M.C. APPEAL No. 64/69

BEFORE: The Hon. Mr. Justice Waddington, President (Ag.)
The Hon. Mr. Justice Fox
The Hon. Mr. Justice Edun

R E G I N A

vs.

ADINA GARRICK

Mr. H. Edwards, Q.C., and )
Mr. N. Edwards ) for the Appellant
Mr. I. Farquharson for the Crown

16th April 1969

WADDINGTON, P. (Ag.)

This is an appeal from a conviction by the learned Resident Magistrate for the parish of Clarendon, on the 7th March, 1969 whereby he convicted the appellant of the offence of unlawful wounding.

The case for the crown was that on the 23rd November, 1968, the complainant, Roy Clunie, was attacked by the appellant, Garrick. Clunie said that Garrick threatened to chop him with a bill, and whilst waving this bill over him he pushed her off. She then picked up two stones to hit him, and he pushed her off again. She then dropped the stone and grabbed him in his shirt. At that moment Alexander Richards came up and held him, and shortly afterwards Harold Black also came up and held him. Whilst he was being held, Garrick threw a stone which missed him. He then told Richards to let him go because Garrick was going to hit him with a stone. Richards did not release him, and Garrick then threw a stone which hit him over the eye causing a wound to the eye.

In her defence, the appellant said that the complainant had used bad words to her and then started to thump her on the right side of her head, and kicked her in her right side. She was four months pregnant at the time. She said the complainant then came at

her with a penknife in his hand, and it was then that she took up a stone and hit him, the blow catching the complainant over his eye. Richards then came up, stretched out his hand, and said "finish away with it". Black also did likewise.

Richards and Black were also charged jointly with the appellant, but they were acquitted.

Learned Counsel on behalf of the appellant has taken two grounds of appeal: firstly, that the learned Resident Magistrate misdirected himself in law in that the verdict of acquittal in respect of Richards and Black who were jointly charged with the appellant was manifestly inconsistent with the verdict of conviction found against the appellant; secondly, that the verdict of the learned Resident Magistrate was unreasonable and/or unsafe having regard to the evidence, in that (a) the crown's case was that all three accused acted in concert whereby the complainant was held by Richards and Black so that the appellant hit him with a stone, and actually did so; and (b) the acquittal of Richards and Black indicated that the learned Resident Magistrate did not accept the evidence of the complainant, and having rejected the complainant's evidence there was no other evidence on which the appellant's conviction could be founded.

It appears to us that if the learned Resident Magistrate accepted the evidence of the complainant, as quite likely he did, and thereby rejected the evidence of the appellant that when she hit the complainant she was acting in self-defence, then on the evidence of the complainant he would perhaps have been justified in convicting all three accused, because it could perhaps be said that Black and Richards were assisting the appellant in attacking the complainant. There was no direct evidence, however, to show that either Black or Richards was assisting the appellant in the sense that they were holding the complainant with the intention that the appellant should hit the complainant with a stone. It might very well be that they merely intergened in order to stop the fighting between the appellant and the

complainant. There was nothing in the evidence to show that they intended that the appellant should hit the complainant with a stone, and the learned Resident Magistrate might very well have taken the view that the appellant being the principal contender, having hit the complainant with a stone, the actions of Richards and Black were not such as to warrant his finding that they were acting in concert with the appellant with a view to wounding the complainant. In any event, it appears to us that on the authority of the case of R. vs. Grossett (1964) 6 W.I.R., 350, the fact that the learned Resident Magistrate may have taken an erroneous view of the position of the two co-accused, Black and Richards, could not affect the validity of the conviction of the appellant. For these reasons we do not think that we should disturb the conviction, and the appeal is therefore dismissed.