



the name of this unmasked man to the police. A warrant was issued for his arrest. Sometime after his arrest, Mr. Afflick went to the police station and pointed out this applicant as being one of the intruders on the early morning of November.

Insofar as the evidence for identification went, there was lighting to which we have already adverted, the applicant and the intruders were quite close to each other, a matter of a yard apart, then they went into the bar and were there for some time engaged in the activity of robbing the bar. The defence was an alibi. The defence also suggested that there was some motive on the part of Mr. Afflick for framing the applicant.

The issue, therefore, was not truly one of identification. The question was one of credit, whether or not Mr. Afflick could be believed on his oath when he identified this man and whether there was any truth in the story about some animosity on the part of Mr. Afflick towards the applicant. The learned trial judge dealt very clearly and adequately with those issues in his summation. At page 44 of the record he said this:

"The question, first of all of the credibility of the sole witness as to the incident was called in question and indeed a motive was supplied in the course of cross-examination as to why the witness, Afflick, was not speaking the truth when he said that the accused man was among three men who came to the premises on the night in question. It was suggested that the accused man's mother and Linnett McClarty, otherwise called Cissy had some fuss over a pig and that the accused man's mother had been accused by Cissy of stealing a pig. That was the motive put in cross-examination. When the accused man's time came for him to give evidence he gave no such evidence; he was examined by his attorney and at no point in his evidence did he state anything relating to this so called incident, this so called fuss or quarrel between his mother and Cissy about a pig. The accused man however said that Mr. Afflick had on one occasion falsely accused him of being party to a robbery some time in 1985 and that Mr. Afflick had subsequently admitted that he had made a mistake when he named the accused man as one of the men who perpetrated that robbery and then again the accused man

"also indicated that Mr. Afflick had quarrelled with him on another occasion when he had gone to the pipe stand to fetch some water. What he was indicating in the witness box then was that there was some bad blood between himself and Mr. Afflick, nothing about any fuss or quarrel between his mother and Cissy as was suggested during the course of cross-examination."

The learned trial judge then continued:

"I had the opportunity to assess the credibility of the witness Afflick and I formed the distinct view and came to the clear conclusion that the witness Afflick, though at times he displayed some impatience, I concluded after hearing his evidence both in chief and under cross-examination that he was speaking the truth, that he was a truthful witness."

The learned trial judge dealt with the central issue of identification and he found a verdict adverse to the applicant. In our view, there was ample evidence on which the learned trial judge could have come to the view at which he ultimately arrived, and we can see nothing deficient in his approach to or in his appreciation of the evidence or his application of the law to the facts in this case. In our view, therefore, this application for leave to appeal fails and is accordingly refused. As to the sentence imposed, it was on the lenient side and we see no reason whatever to interfere. The sentence we will order to run from the 6th of September, 1988.