

IN THE COURT OF APPEAL

R. M. COURT CRIMINAL APPEAL No. 123/66.

B E F O R E: The Hon. Mr. Justice Henriques, Presiding
 The Hon. Mr. Justice Waddington
 The Hon. Mr. Justice Eccleston (Acting)

R. vs. G L O R I A B R O W N

Mr. L. R. Cowan for the Appellant

Mr. U. D. Gordon for the Crown.

26th September, 1966.

HENRIQUES, J. A.

The appellant in this matter was charged along with one Harold Black with the offence of unlawful possession of ganja. Black was acquitted by the learned Resident Magistrate at the end of the Crown's case and the trial proceeded against the appellant who was eventually convicted and sentenced to eighteen months hard labour. She now appeals against her conviction.

The facts of the case as appears from the evidence which was given at the trial were that on the 13th of December at about 8.15 in the morning a certain constable, Clifford McKitty, was on patrol on the main road at Central Village, St. Catherine. Whilst riding his cycle he saw the appellant along with Black riding a motorcycle which was being driven by Black and the appellant was on the pillion of the motorcycle. She had, according to the constable, a white travelling bag strapped across her shoulder, and on reaching a portion of the main road Black turned off into a side road. The constable followed them and he saw the appellant come off the cycle,

157

and he then parked his motorcycle and went to the spot where Black was. At that time the appellant ran with the bag into a house and the constable held on to Black and arrested him for driving whilst disqualified. Black pulled away from the constable and ran around the kitchen and eventually managed to elude the constable. The constable then ran to the yard, went inside the house and started to look for the appellant. Eventually he found her hiding behind a door with this white bag still strapped across her shoulder. He took the bag from her, opened it, looked in it and saw that it contained vegetable matter resembling ganja. He also saw two brown paper parcels in the bag. This was shown to the appellant and she was informed that they resembled ganja and she said she knew nothing about it.

The appellant's case was that she was never carrying this bag at all but that it was at all times in the possession of Black.

Mr. Cowan on her behalf has submitted three points. First of all, that there was no evidence that the appellant was in possession of the bag with knowledge that the contents was ganja; secondly, the trial judge misdirected himself when he concluded that the mere carrying of the bag would be sufficient evidence of possession in law justifying his verdict of guilty, and thirdly, that the appellant having been jointly charged with Black ought to have been dismissed along with Black by the learned Magistrate when he found that there was no evidence to place possession of the bag and its contents in Black. He relies upon the case of Reg. vs Chambers decided in this Court and reported in 6 West Indian Law Reports at page 229.

We are of the view that that case is not applicable at all in this particular matter. It deals with an entirely different set of circumstances. We are unable to share counsel's views with regard to submissions he has made to us. In our view there was ample evidence to justify the Magistrate in coming to the conclusion which he did. This girl was seen in possession of the bag, she ran and hid herself and in that bag was found ganja. There was in our view

ample evidence to justify the conclusion to which the learned Magistrate came. The appeal is accordingly dismissed.

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