

J A M A I C A

IN THE COURT OF APPEAL

R.M. COURT CRIMINAL APPEAL NO. 184/68

Scan

B E F O R E: The Hon. Mr. Justice Waddington - President (Ag.)
The Hon. Mr. Justice Luckhoo
The Hon. Mr. Justice Edun (Actg.)

R E G I N A vs. L E O N W R I G H T

Mr. J. A. Leo Rhynie for the appellant
Mr. B. H. Reid for the crown

22nd November, 1968

EDUN, J.A. (Actg.)

The appellant was charged with the offence of larceny from the person, contrary to Section 18 of the Larceny Law, Cap. 212. The particulars of offence are that Leon Wright on 7th day of August, 1968, at and in the parish of Kingston, stole one handbag containing money from Dorcas Martells valued 21/1d., the property of Dorcas Martells. The appellant was convicted by the learned Resident Magistrate for the parish of Kingston on the 22nd of August, 1968, the date of the trial. He now appeals against the conviction.

The facts are that on 7th of August, 1968, Dorcas Martells was proceeding with her father to the railway and she said that about 6:30 a.m. she was in the vicinity of the Coronation Market. She came off the bus and was walking on the street to go to the railway. She had a grip and a purse or handbag in her hands and whilst proceeding on the street she noticed the appellant walking behind her. As he came up to her she said to him, "What you want?". The appellant walked beside her, grabbed her purse, ran up a little street with the purse in his hand. She called out for 'thief'.

Special Constable Lambert Gentles gave evidence that on the same day at about 10:40 a.m., he heard the shouts of, 'Thief, thief'. He

turned around and saw a man running up Bond Street followed by a crowd of people. That man had a handbag. He said he saw him running with the handbag. He threw it away, then he caught up with the appellant and at that time he did not see the appellant with the handbag.

The complainant said that the police in civilian clothes after catching the appellant, asked, "Where is the lady for the bag?". The complainant said she then went up. She said she saw the accused; he was crying, and she did make the complaint that it was the appellant who grabbed the handbag but the accused said that he did not steal her handbag.

It would appear that at the police station, where they were all taken, that the purse was identified by the complainant as a big brown bag, and in it was 6/1d., which she said was in the handbag before it was grabbed. The appellant was arrested and then charged. After caution he said he did not steal any purse. The special constable stated that after caution, the appellant said; "Me no thief. A man wanted to fight me and I ran."

The appellant at the trial gave evidence on oath. He said that on the day in question he did not steal any handbag from any person nor was he in the vicinity of the Coronation Market but he was arrested by a special constable and that constable was not Lambert Gentles. He insisted that he did not steal any bag from the complainant.

Before us in this court, learned counsel for the appellant argued the only ground of appeal, that is, that the verdict is unreasonable having regard to the evidence and it cannot be supported in law. He urged upon this court that there were two distinct cases really presented before the learned Resident Magistrate. He further urged that there are several discrepancies. For example, he said that the complainant gave evidence that the incident occurred at 6:30 a.m. on the 7th of August, 1968; secondly, she said that the accused grabbed her handbag and ran up Darling Street, and thirdly, that the constable asked, "Where is the lady for the bag?". Whereas Lambert Gentles in giving his evidence said that the incident occurred at 10:40 a.m.; secondly, that he held the accused on Bond Street; and

thirdly, that he never said: "Where is the lady for the bag?". Having regard to those submissions, learned counsel for the appellant maintained that the learned Resident Magistrate could not reasonably have arrived at the verdict he did.

Of course, the learned Resident Magistrate had before him those discrepancies and counsel for the appellant at the trial must have mentioned those points in his address as it is stated in the record that he said there were two distinct cases for the crown and that there was no case for the accused to answer. The appellant was nevertheless called upon for a defence.

Upon a careful review of the evidence, whether or not the incident occurred at 6:30 a.m. or at 10:40 a.m., the fact remains that the learned Resident Magistrate had before him the evidence - which he could or could not believe that the complainant had seen or identified the appellant as the person who had grabbed her handbag and run away with it. Whether or not it occurred on Darling Street or Bond Street, the learned Resident Magistrate had before him the evidence which he could or could not believe that the special constable had seen the accused person running with a handbag, and at the time when the special constable held him the appellant, he had not the handbag. It would appear that the handbag was recovered seconds later. Then the learned Resident Magistrate had before him the evidence that at the police station the handbag was claimed by the complainant; there was this undesigned coincidence - if he believed the complainant - there was the sum of 6/1d., found in that handbag.

We cannot say that the learned Resident Magistrate in considering the evidence had unreasonably accepted the case for the prosecution. He had the benefit of seeing the witnesses and considering their demeanour and so at the end of the case he had ample evidence upon which he could reasonably have come to the conclusion that the appellant was guilty of the charge. For those reasons, we see no cause for disturbing the Resident Magistrate's findings and so we dismiss the appeal.