

IN THE COURT OF APPEAL

R.M.C.A. No. 214/65

BEFORE: The Hon. Mr. Justice Henriques (P)
The Hon. Mr. Justice Waddington
The Hon. Mr. Justice Moody (Ag.)

R. v. LLOYD EVANS

Mr. C. B. F. Orr for the Crown
Mr. D. Muirhead for the appellant.

23rd November, 1965

HENRIQUES, J.A.:

This appellant was convicted before the learned Resident Magistrate for the parish of Kingston, for attempted larceny of two cartons of sardines, the property of Bryden & Evelyn Ltd., and sentenced to pay a fine of £40 or ~~serve~~ three months imprisonment with hard labour.

The facts, very shortly, are that Winston Williams, a store-keeper employed to Bryden & Evelyn, was on the premises on that day, the 28th of May, in the early morning and around 8.30 while sitting inside the warehouse he saw the appellant who was employed as a general handyman at the warehouse pass by him with two bags of salt going through the door. He then made a report to the manager of the warehouse, a Mr. Binns; and at about 12.10 that afternoon Williams while sitting outside the warehouse, which had been closed for lunch, saw the appellant go to an old latrine and there saw him remove from it the two bags which he had earlier seen him with. He left with them to the gate at the back of the premises and he there placed them near to the gate among some empty paper salt bags. Williams also observed a hand-cart outside the gate.

At this juncture, Mr. Binns, the manager, came upon the scene and he enquired from the appellant as to whom these bags belonged and the appellant is alleged to have said: "It is mine, it is old sweeping of salt and I am going to dump it." Mr. Binns then pulled the string

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securing the bags, opened them and then having placed his hand down into the salt, came out with two cartons of sardines. The appellant was asked how they had got into the bags and he said he did not know. Eventually ~~the~~ appellant was arrested on the charge.

He gave evidence on his own behalf and stated that on that particular day he was working there, stitching some salt bags in a machine and that these bags came to him after someone else had filled the bags with salt. That often in this process some of the salt is spilt and that it is swept up and apparently the management agrees that that salt may be given away. On that day, he said, around lunch time, a cartman spoke to him and asked him for some empty salt bags and he was helping him to get some of these salt bags and while doing so Mr. Binns, the manager, came out and asked him if he was giving away some empty bags and he said 'yes' and then Mr. Binns went on to examine the bags and took out the cartons of sardines and asked who had put them inside and he, the appellant, said he knew nothing about it.

It has been submitted to us by learned counsel for the appellant that the verdict was unreasonable having regard to the evidence. We have considered the evidence in the case and we are of the view that there was ample evidence before the learned Resident Magistrate to enable him to come to the conclusion to which he did. We see no reason why this conviction should be disturbed, the appeal is therefore dismissed.

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