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IN THE COURT OF APPEAL

R.M.C.A. No. 212/65

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

R. v L O U I S M c L E A N

Mr. C. B. F. Orr on behalf of the Crown.

Mr. N. A. Henriques on behalf of the Appellant.

23rd November, 1965

MOODY, J.A.(Ag):

The appellant in this case was tried on the 29th of September, and was convicted of the offence of unlawfully having ganja in his possession and sentenced to 18 months imprisonment at hard labour.

The evidence for the prosecution was that about 6:30 in the morning of the 27th of July, the Police armed with a Search Warrant, went to the premises of the appellant at a place called Peace River. They knocked at the door, the appellant opened the door and the Warrant for search was read to him. In the course of the search that followed, in the thatched roofing over one of the beds, the police found a brown paper parcel with vegetable matter and showed it to the appellant telling him that it was ganja. In the room was also a woman, the wife of the appellant, and two babies. He was arrested and charged with having ganja in his possession. A sealed package was made of the ganja that was found and taken to the Government Analyst who certified it to be ganja.

The appellant, in his defence, said that on this morning he heard a push on the door and he asked who was at

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the door and there was the reply 'police.' The door was latched with a board latch. He said that he was dragged outside and taken to a new house and tied up there and he did not witness the search or see what took place in the room. He heard them talking about ganja and he asked to be allowed to see it but they refused to show it to him saying that he, the appellant, would want to grab it so he never saw what was found.

As I said, the learned Resident Magistrate found him guilty of this offence and passed sentence. Here, before us, learned counsel for the appellant addresses himself on one point and that is, at the time of the arrest of the appellant, the appellant said nothing in answer to the caution; but immediately after, he said, "Don't trouble my wife, she doesn't know anything about it, Sah;" and learned counsel invites this Court to say that those words constituted an equivocal statement, it was capable of two interpretations, one inference, the knowledge of ganja and the other, that it was a statement innocently uttered in protection of his wife.

Well, in our view, having regard to the peculiar context of the case, we do not agree that that statement was capable of being interpreted as appellant has contended. To the learned Resident Magistrate, it was opened to him in the context of the particular case to come to the conclusion that he did, and he accepted those words as he found them to be words from which he could draw the inference of the knowledge of ganja being present. In our view, we see no reason to disturb the findings of the learned Resident Magistrate. The appeal is accordingly dismissed and the sentence is affirmed.

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