

ROYAL COURT

26th July, 1989

Before: The Bailiff and
Jurats Vint and Orchard

Police Court Appeal: Carol Marie Arkins

Appeal against convictions on various charges of criminally and fraudulently obtaining board and lodgings by deception and two charges of having assaulted women police constables in the due execution of their duty. The appellant had been bound over to be of good behaviour for a period of six months in relation to the charges of criminally and fraudulently obtaining board and lodgings (on condition that the board and lodging was immediately paid for) and had been sentenced to a term of two weeks' imprisonment in respect of the assault charges.

Advocate S.C. Nicolle for the Crown
Advocate F.J. Benest for the appellant.

JUDGMENT

THE BAILIFF: There is a suggestion here that an accused person's mental state is in issue, as undoubtedly it was, not so much in relation to her ability to plead, but as to whether her mental state was sufficient to enable her to form the necessary intent. In such an instance it is not for the defence to have to prove that the defendant's mental state was such that she could not form the necessary intent, it is for the prosecution to prove that her condition did not affect the the defendant's intentions and subsequent acts.

We think that once the Magistrate was put on notice in at least two passages in Dr. Faiz's evidence, firstly that she was suffering from a mental disease, and secondly, although it is somewhat equivocal, that she might not have understood the difference between right and wrong, the question he had to ask himself was whether the evidence was such that it proved, on the part of the prosecution, beyond reasonable doubt that the defendant's state of mind did not affect her actions. We have come to the conclusion that it would be unsafe to allow these convictions to remain because it does not appear to us that that particular point was addressed by the Magistrate. Whilst it is quite true as you say that he heard all the witnesses and made a pronouncement, we think that that failure to approach the case in the way in which, I have suggested, these sort of cases must be approached, means we shall allow the appeal. Therefore the convictions are quashed. Legal aid costs.

n.b: no authorities referred to.