*Privy Council Appeal No. 48 of 1988*

**Pradeep Heeramun** *Appellant*

*v.*

**The Queen** *Respondent*

FROM

## THE SUPREME COURT OF MAURITIUS

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## JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 23RD MAY 1990

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*Present at the hearing:-*

LORD KEITH OF KINKEL
LORD BRANDON OF OAKBROOK
LORD TEMPLEMAN
LORD ACKNER
LORD JAUNCEY OF TULLICHETTLE

*[Delivered by **Lord Keith of Kinkel**]*

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This appeal comes before the Board by virtue of 70A of the Courts Act, which was added to the Act by section 7 of the Courts (Amendment) Act 1980 and which provides for an appeal from the Supreme Court to Her Majesty in Council as of right in all criminal cases.

The appellant was on 10th December 1987 convicted by the Intermediate Court upon an information containing three charges. The first charge was one of possessing a mould for the making of bank notes, contrary to section 100(3)(d) and (4) of the Criminal Code. The second charge was one of possessing firearms without a licence, contrary to sections 3(1) and 24(1) of the Firearms Act, and the third was one of possessing ammunition without a licence, contrary to the same enactments.

The evidence before the court disclosed that on 9th January 1986 the appellant's dwelling house was raided by police officers acting under a warrant. The house consisted of two floors. The appellant lived on the lower floor, and his mother and sister-in-law, with the latter's children, lived on the upper floor. The appellant's brother had died in 1984 and before then he too had lived on the upper floor. In a locked drawer in a desk in a room on the upper floor the police officers found two wooden blocks, one of which bore an effigy

of Queen Elizabeth II and the other of which bore the characters "£50" and "Bank of England". The blocks were wrapped in a newspaper bearing a date in 1985. A search was then made of the yard surrounding the house, and under a grinding stone (a construction used for the grinding of spices) there were found two pistols, a silencer, a quantity of ammunition and some firearm accessories. The appellant did not have a licence to possess firearms or ammunition. The appellant denied knowledge of the presence of the incriminating articles. He said that he never entered the upstairs room and that the blocks belonged to his deceased brother (though according to police evidence he had said, when they were found, that a friend had given them to him). He denied that the blocks had been found wrapped in a newspaper dated 1985. He was unable to explain the presence of the pistols and ammunition under the grinding stone, but produced a document showing that the piece of ground in question had been conveyed to his brother, and in a statement to the police said that he was on bad terms with some of his neighbours. The grinding stone was situated 4 to 5 feet from the house and about 10 feet from the boundary of the property, which had a bamboo fence on three sides.

The magistrates expressed the view that the appellant was an unsatisfactory witness. They found that he was in possession of the articles mentioned in the charges and that he knew what they were. Having convicted the appellant they sentenced him to twelve months' imprisonment on the first charge and to three months' imprisonment on each of the second and third charges, to run concurrently. An appeal by the appellant to the Supreme Court was dismissed on 7th June 1988.

As was made clear in *Badry v. D.P.P.* [1983] 2 A.C. 297 and *Buxoo v. The Queen* [1988] 1 W.L.R. 820, this Board, when dealing with an appeal as of right in a criminal case under section 70A of the Courts Act, applies the same principles as it has traditionally applied in considering applications for special leave to appeal in criminal cases. Such leave is granted only in exceptional circumstances, where the Board consider that a really serious miscarriage of justice may have occurred.

Their Lordships are satisfied that there has been no miscarriage of justice in this case. There was ample evidence upon which the magistrates could properly convict the appellant on all three charges. The only issue was whether or not the appellant was knowingly in possession of the wooden blocks and the pistols and ammunition. The appellant was the only man living in the premises where the incriminating articles were found. He was in control of and had access to the whole of these premises. No suggestion was made that his mother or sister-in-law was in any way concerned, and the evidence about the wooden blocks being

wrapped in a newspaper dated in 1985, as to which the magistrates were fully entitled to accept the police evidence and reject that of the appellant, ruled out any involvement by the deceased brother with these articles.

As regards the pistols and ammunition, the extreme improbability of anyone other than the appellant having chosen the particular hiding place where they were found was a factor pointing strongly to his guilt. The magistrates had inspected the scene of the concealment and were well able to form a view about this. It was suggested on his behalf that the magistrates, having found that the appellant had lied about the wooden blocks, should have put that entirely out of their minds when considering the evidence about the pistols and ammunition. It is of course true that the evidence against the appellant on each charge fell to be considered separately, as though each charge was contained in a separate information. A careful reading of the magistrates' judgment does not, however, indicate that they allowed their adverse view of the credibility of the appellant's evidence on the first charge to colour their consideration of the second and third charges. There is no reason to doubt that the magistrates had in mind that the evidence of a particular witness may lack credibility and reliability on one matter but may not do so upon another matter. In the whole circumstances of the case the inference that the appellant was knowingly in possession of the pistols and ammunition, as well as of the wooden blocks, was an entirely legitimate one.

Their Lordships will humbly advise Her Majesty that the appeal should be dismissed.