

MAGISTERIAL CRIMINAL APPEAL No. 3 of 1992

BETWEEN

ALVIN PERKINS

Appellant

and

THE COMMISSIONER OF POLICE

Respondent

Before: The Rt. Hon. Sir Vincent Floissac - Chief Justice
The Honourable Mr. Justice Nicholas Liverpool
The Honourable Mr. Justice Satronan Singh

Appearances: Mr. Karl Markham for the Appellant
Mrs. Gertel Thom for the Respondent

1992: October 12

JUDGMENT

On the 31st day of August, 1992 the appellant pleaded guilty to the offences of possession and the cultivation of cannabis sativa contrary to the provisions of the Drugs (Prevention of Misuse) Ordinance (No. 7 of 1989). The maximum penalty laid down by the Ordinance for each offence is a term of three years imprisonment and a fine of \$100,000.00.

It was clear that it was the intention of the learned Magistrate to impose two custodial sentences of 9 months each to run concurrently. Having regard to certain aggravating factors, there can be no justification for this Court to interfere with these sentences. The factors are:-

- 1 the fact that the appellant had 49 previous convictions;
- (2) the fact that three of the said convictions were for possession of cannabis sativa and one for cultivation of cannabis sativa;
- (3) the fact that the last two convictions recorded against the appellant were for possession and cultivation of cannabis sativa for which he served prison sentences of 6 months respectively.

The learned Magistrate, however, also imposed in respect of each offence, fines which were required to be paid by the appellant not forthwith, but during a period of time when he would have been in prison serving the custodial sentences mentioned above. In default of payment of those fines further custodial sentences were imposed. These fines were clearly wrong in principle and should therefore be


set aside

The decision of the Court is, therefore, that the custodial sentences of 9 months to run consecutively are confirmed; but the fines and custodial sentences to be served in default thereof are set aside.



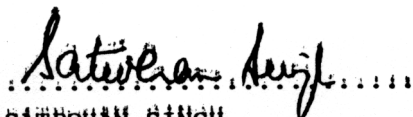
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SIR VINCENT FLOISSAC
Chief Justice



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N.J.O. LIVERPOOL
Justice of Appeal



SATROHAN SINGH
Justice of Appeal