

Between:

SURESH CHARAN s/o RAM CHARAN

and

REGINA

Mrs. Hoffman for the Appellant

Mr. Subhrawal for the Respondent

DECISION

The appeal in this matter was adjourned pending a ruling on a motion brought on behalf of the appellant to adduce additional evidence pursuant to the provisions of section 320(1) of the Criminal Procedure Code.

An affidavit in support of the motion was filed by the appellant and submissions were made thereon during the hearing on 3rd December, 1982.

I have carefully considered this application to adduce additional evidence but can find no justification for it. The evidence which the appellant had proposed to adduce would merely show a history of ill-feeling between the accused and the complainants in the present case. Such evidence is already available to the court as it was adduced at the trial in the court below. It is not in dispute so that there is no point in this attempt to elaborate on it any further.

This appeal is not by way of a rehearing but by way of arguments and adjudication upon the record of trial.

Additional evidence will only be allowed if it was credible and relevant to the main facts in issue and which no human ingenuity could have foreseen at the time of the trial. Such is not the case here.

Accordingly the motion is refused.

Chief Justice