

THE QUEEN -v- KONE WARI.

This case, one would have expected to have been simple; it has turned out to be one of extraordinary difficulty.

The accused is charged with a despicable theft from a station waggon parked at Tabari Place, with two young children in the back seat whilst the mother went to shop.

The accused is charged with the mean theft of taking a purse out of a car by reaching through the back window. The purse itself was in an imitation bamboo outer purse, and contained 30/-, a B.P.'s receipt, a little silver and two cheques, which have been put in evidence.

The Crown case depends wholly upon a witness LAIAM, who, if he is to be believed, would unquestionably fix the present accused with guilt.

LAIAM says that, when only twelve feet away, he saw the accused (who saw him) reach in through the window of the car and take a small beaded purse and run off between two houses, dressed in a white T-shirt and a pair of blue shorts. ^{LAIAM says that he at once started in hot pursuit.} The accused, LAIAM says, put the purse in his pocket and then ran towards some bushes on the other side of the Bakery, where he took out the money and transferred it to his wallet, throwing down the beaded purse. Later the beaded purse was picked up in the vicinity described by LAIAM, containing nothing but the B.P.'s receipt, and nearby on the ground were the two cheques.

LAIAM says that whilst the accused transferred the money to his own wallet, he put on his T-shirt again, which he had elected to take off as he ran, then continued to run off towards Lahara Avenue, where he boarded a bus and paid his fare.

LAIAM, in pursuit, says that he apprehended him in the bus and told him why he had come to get him, and the accused protested that he knew nothing whatever about the theft. He walked with LAIAM and another native to the Police Station, where he was interviewed by Mr. ^{Inspector} Thomas, and it was found that he had two £1 notes and one 10/- note in

his wallet. He was asked to explain where he got the money, and said that he had been paid £1.6.0. by his employer and that the other money was his. It is a circumstance of some suspicion that he evaded the question as to where the remainder of the money came from.

At the Police Station the accused walked ahead of the two accompanying natives and protested his innocence at once to Mr. Thomas.

Mr. Thomas, a most credible witness, testified that the accused, when he arrived, carried a khaki rami. At no time did LAIAM refer to the khaki rami, and it is difficult to see how ^{the accused} he could have done in the bushes as described by LAIAM if he were also carrying a khaki rami.

The owner of the purse, on hearing her small child of three cry out, came out and found the purse missing and the back door unfastened. She has testified that the little girl was quite incapable of opening that door, although she might have been able to wind down the window.

The Defence has urged that the fact that the door was open indicates that the theft was made by some other person in a different manner from that described by the witness LAIAM.

Mrs. Kendrick, the owner of the purse, then walked a little from the car and saw a native in a T-shirt and short hair running round some packing cases, but she lost sight of him. She saw nobody else running at all, and it is difficult to understand, if LAIAM's evidence is reliable, how she did not see him following the accused.

LAIAM's evidence is that he never at any time lost sight of the accused, and if he is to be believed, there can be no doubt that the present accused is the culprit, but the evidence makes me uncertain as to his reliability as a witness, and as the Crown case must depend or fall upon the evidence of LAIAM, it does not produce in my mind that certainty of guilt which criminal proof requires; therefore I must give him the benefit of the doubt. I find him Not Guilty, and he is discharged.

J.

3 p.m. 26/8/60.