

IN THE HIGH COURT
OF
TRINIDAD AND TOBAGO

CRS. NO. 060/2005

THE STATE

V

JOSEPH RAMSAROOP

FOR

WOUNDING WITH INTENT TO CAUSE GRIEVOUS BODILY HARM
TO ALLISTER LUCAS

PROCEEDINGS HEARD BY THE HONOURABLE
JUSTICE LISA RAMSUMAIR-HINDS

SF 15, SAN FERNANDO SUPREME COURT

ON FRIDAY, 31ST JANUARY 2020

APPEARANCES :

MRS. S. LALOO-CHONG, MS J. FORRESTER
on behalf of THE STATE

MR. R. RAMGOOLAM
on behalf of JOSEPH RAMSAROOP

TRANSCRIBED BY:
SABRINA SADANAN

(PROCEEDINGS COMMENCED AT 10:26:49 A.M.)

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COURT OFFICER: Court stand.
THE COURT: Good morning.
MR. RAMGOOLAM: Good morning.
MRS. LALOO-CHONG: Good morning.
JSO: The State v Joseph Ramsaroop.
MRS. LALOO-CHONG: Good morning, My Lady.
THE COURT: Good morning.
MRS. LALOO-CHONG: Mr. Ramsaroop is before you and appearances on both sides as before, should it please you.
JOSEPH RAMSAROOP: Good Morning, Ma'am.
THE COURT: Good morning. Have a seat, please. May I see the file? Give me one minute, please.
All right. Mr. Ramsaroop was charged when?
MS FORRESTER: 27th April 2002.
THE COURT: The date of the offence, so he would have been taken into custody and locked up the same day.
MS FORRESTER: Yes, please.
THE COURT: All right. Good. 27th April --
MS FORRESTER: 2002.
THE COURT: May I see it again, the file?
MS FORRESTER: Okay.
THE COURT: Right. I think sometimes we spend so much time talking about how long it takes for a matter to come to trial because it is routine now for matters to take years to come to trial. But that didn't happen overnight; that happened over decades. Decades that systematically within the criminal justice system we've had so many problems. Problems at the Magistrates' Court level, problems after committal proceedings at the level of the DPP's department and prerogative for indictments to be filed, and then, even then, challenges within the Assizes itself. There's so many systematic problems that have contributed to the slow pace of justice within the criminal justice system, in particular. I think in the civil jurisdiction we've seen a lot more positive responses to the new rules. We still call them the new rules, they not new anymore. In fact, the new rules would seem to be the Criminal Procedure Rules, which are still very, very new.
Separate and apart from that, we've had so many new, positive pieces of legislation, particularly within the last three years. We've had legislative amendments, which now allow for the filing of formal admissions, where the State and the Defence, really in essence have no challenge, no dispute with what is being said by individual witnesses. So that they don't have to come to Court to give their evidence *viva voce*. And I think one of the biggest gains for the criminal justice system is the fact that a man who

1 faces an indictment -- a man or woman, forgive me -- who
2 faces an indictment can elect in appropriate cases, based
3 on good legal advice, to have a trial down by Judge alone.
4 When you juxtapose the need to dispense with the
5 empanelling of a Jury, to have legal arguments in the
6 absence of a Jury, the ability to agree by formal
7 admissions, where there is no dispute on the facts, to
8 bring down and crystalize as those who know the law
9 understand the law, what is the precise thing in dispute?
10 Aspect of the facts in dispute. A trial can be determined
11 in the kind of time that this matter has benefitted from.
12 I don't know if it escaped anybody's attention, I doubt it
13 did, but I had to ask for the file this morning to look at
14 the time itself.

15 This matter was called on Monday at 9:54 a.m. and
16 ended at 10:14 a.m. All of the evidence for the fact
17 finder's attention -- all of the evidence was entered in 20
18 minutes. The case for the Prosecution was closed; the case
19 for the Defence was closed in 20 minutes flat. It is not
20 to say and my -- the result of this case does not say that
21 the Prosecution wasted your time, Mr. Ramsaroop. Do not
22 misunderstand me. There was indeed a triable issue here.
23 There was a triable issue that needed to be addressed
24 within the criminal justice system. It's a pity that the
25 incident that took place in 2002, an incident which you
26 don't dispute. You didn't dispute it on the very day it
27 happened. You told the police within hours after the
28 victim's blood was shed, you told the police your version
29 of exactly what transpired, within hours.

30 Here we are, in the year 2020, determining --
31 determining an issue with -- thank goodness, because we now
32 have good legislation. We now have good cooperation from
33 the criminal bar. We now have the ability to take this
34 matter, break it into all of its component parts and bring
35 it down to the one real factual issue. It is not a case
36 whether self-defence arises. It is a fact that
37 self-defence arises. It is a fact. But there's a second
38 step that had there been a Jury of lay-persons here I would
39 have had to advise and expect them, nine of them, to be
40 able to measure what the law says. "You know the law says
41 there is grave difficulty in measuring this thing. So all
42 right, I handing you this, all yuh go and weigh it up, all
43 yuh measure it." Nine of them. You now have the ability
44 to ask one person, who if I had felt and made a
45 determination against you I would have had to explain and
46 give reason why I would convict you. And that itself is
47 subject to appeal.

48 Had a Jury of nine lay-persons measured that second
49 aspect of the self-defence direction and convicted you, you
50 couldn't ask them, "Well, how all yuh weigh that boy?" You

1 couldn't. So there is so many gains in the criminal
2 justice system, and I applaud particularly Mr. Ramgoolam
3 for taking the initiative that he did, in December last
4 year, to in a split second give a good advice about this
5 being a good case for a Judge alone trial. So not only
6 that you entrust the reasoning to a single person, which
7 itself sometimes doesn't lend itself to other cases, and
8 the advice of counsel in other cases. It may be that they
9 think it's riskier for one person in some situations and
10 better for 12. Maybe in the case with 12, I'm not sure.
11 But Mr. Ramgoolam thought it fit that this is one where if
12 that single person would convict you she would have to
13 explain why. Let's test it. And this was a good one.

14 Coming back to the matter at hand, and should the DPP
15 require reasons I will gladly provide you with detailed
16 reasons, elucidating every aspect of this case. I would be
17 able to tell you clearly why your Virtual Complainant and
18 his liming buddy that night -- morning, who bears the
19 nickname "Trouble", which didn't trouble me by the way, but
20 that was his nickname. Themselves having been drinking
21 from since -- well, if you listen to -- if you follow
22 "Trouble's" deposition, he says they were drinking before
23 they even went to start gambling in Mayaro and then go
24 looking for a bar -- I don't know if you all read those
25 depositions carefully but they were -- those men were
26 seeking out other liming spots. They mentioned that
27 "Nowhere else was open in Rio Claro." So desperate were
28 they for this drinking binge that they were on. Mind you,
29 your Virtual Complainant said, "I was drinking slight
30 'cause I had to work the next day." I don't know if he was
31 talking about the Sunday or later that very Saturday. They
32 say it's not good to speak of the dead, but the truth of
33 the matter is when provocation and self-defence arise you
34 have to interrogate the conduct of the Virtual Complainant.
35 You really do have to.

36 The number of inconsistencies between Mr. Allister
37 Lucas and -- what's the gentleman's name? Vishnu
38 Ragoonanan. If you want me to detail them, I'll detail
39 them for you, from who was gambling, to whether beers were
40 included, to how much nip of -- what rum they say they
41 drink? Black Label, they drink. How much they drink in
42 Mayaro before they reach to Rio Claro? Who put up to buy
43 the very next nip of Black Label? These two men were
44 drinking, they were inebriated, there's no doubt about it.
45 That by itself makes them difficult to believe, though I
46 didn't have the benefit of seeing them for myself. I
47 didn't need to. They spoke to another Judicial Officer,
48 who captured what they had to say adequately.

49 There is one grave disparity between Mr. Ragoonanan
50 and the Accused and Mr. Sinanan, which is that Mr.

1 Ragoonanan left. So Mister -- it's either I believe that
2 Mr. Ragoonanan was actually there or if he's outright
3 lying. I find Mr. Ragoonanan's evidence to be difficult to
4 accept in general because of how inconsistent it is with
5 everybody else's testimony and I make no pronouncement as
6 to whether he was present or not present, I simply say that
7 I could not rely on the evidence of Mr. Vishnu Ragoonanan.
8 That tidily sorts it out at this point. If you'd like me
9 to measure exactly how much weight I apportioned or whether
10 I apportioned weight, I can give you the reasons.

11 It left me with Allister Lucas' -- that's the victim's
12 evidence, as against the fact that the Accused did indeed
13 tell the -- give the police a statement, and is relying on
14 it, and the evidence of Mr. Manniram Sinanan, who was
15 there. Neither of those two persons could be suggested to
16 have been inebriated or operating under any diminished
17 capacity to give reason. Mr. Sinanan's evidence -- I see
18 from Ms Forrester's submissions at paragraph 14, and I
19 think this is the essence of what the State wants me to
20 find. There's a portion highlighted from Mr. Sinanan's
21 evidence which is: "He chop him in his head first then his
22 back. He hit him a few times. Later on after John hit him
23 a few blows with the cutlass Allister run out of the bar."
24 And State Counsel says -- and this is not you
25 Mrs. Laloo-Chong, but Ms Forrester, submitted: "Therefore,
26 this negatives any break in activity and any imminent
27 attack to him..." meaning the Accused, "...as it speaks to
28 one event. Thus providing no extenuating circumstances to
29 cause him to use this measure of force." And that's what
30 this case comes down to, whether or not the force was
31 reasonable. Put another way, whether the force was
32 excessive. There's no suggestion that force was not
33 required.

34 It is accepted, I think, it is not in dispute, that
35 when Mr. Ramsaroop approached the victim that day with a
36 cutlass in his hand he was operating under the view that
37 some force was required to assist Manniram Sinanan. I have
38 just said that I rejected Vishnu Ragoonanan's evidence,
39 which means that I don't believe that at the time the blows
40 were sustained that it was someone else. Who was it?
41 Robbie or Rodney -- the other gentleman who was at the bar.
42 That's Vishnu Ragoonanan's evidence, which I don't accept.

43 I do believe that the victim in this case was drunk
44 that morning. Had been drunk before he arrived. Had
45 behaved very badly at that location, caused quite a number
46 of disruptions to the ordinary goings at a bar, got himself
47 into conflict with a number of different people -- patrons.
48 I accept Mr. Manniram Sinanan's evidence that patrons left
49 his establishment because of the behaviour of the Virtual
50 Complainant. So that quite a lot had transpired because of

1 the victim's bad behaviour that morning even before an
2 altercation took place between the victim and the Accused,
3 including that the victim got into a physical altercation
4 with his own liming partner and with another patron who
5 tried to separate him from the Accused at the bar.

6 I accept that he aggressively conducted himself in
7 relation to many persons at that bar that morning, that he
8 had been asked to leave by Manniram Sinanan several times,
9 that he threatened both Manniram Sinanan and the Accused.
10 I accept that at the time the victim aggressively attacked
11 Manniram Sinanan -- and this is a significant -- the
12 Accused was not nearby, but had in fact been behind the
13 bar, as both Mr. Sinanan and the Accused told the police
14 within hours after the incident took place, that he had
15 been chopping up meat in the back of the bar. It was his
16 primary occupation. He was not a bartender; he was there
17 to cook. He assisted with other duties.

18 I accept that Manniram Sinanan called out for help and
19 that when Mr. Ramsaroop, the Accused, ran out to the
20 location where this incident took place, with the same
21 cutlass in his hand, which was the implement for cutting up
22 the meat and was not then a weapon, he went to the
23 assistance of his employer at that point in time, who had
24 been braced up against a wall by the drunk, badly behaved
25 man. I accept that in that split second when Manniram
26 Sinanan fled, having been rescued by the Accused and went
27 inside and locked the door that that provides Counsel for
28 the State, respectfully, with the opportunity that tidily
29 sorts out this suggestion that there was no break in
30 activity. At the time he's running into the bar and
31 locking the door behind him. He cannot assist us with what
32 the victim did, having been pulled off or pulled --
33 attention pulled away from Manniram Sinanan. I believe
34 that at the point in time his attention turned from
35 Manniram Sinanan, the victim then turned his aggression on
36 the Accused. It is at that point in time it no longer
37 became defence of another but became defence of self.
38 Correct, it was one activity. It was one activity. The
39 break took place when the victim turned his attention on
40 attacking someone one else. And I accept that the law says
41 that in those circumstances it is almost impossible to
42 weigh it to an exact nicety and measure how many blows is
43 actually necessary to stop this drunk, angry man from
44 causing me physical harm? Self-defence succeeds in this
45 case.

46 Stand please, Mr. Ramsaroop. I am happy to tell you
47 that since 2002, fortunately, because of all the progresses
48 in law, because of the fact that our Parliament -- both
49 sides of our Parliament -- can now thankfully, thankfully
50 agree to passing good law. Good legislative changes. You

1 have now been able to benefit from not just formal
2 admissions. So that this was entirely paper trial that
3 lasted 20 minutes on Monday, and what was a good triable
4 issue in law. I am happy to tell you, sir, that I find you
5 not guilty. What you did in 2002, on that day, was what
6 one hopes from a good employee. If their employer is
7 attacked your hope that somebody will come to your
8 assistance. And the law does say that in those
9 circumstances it is very difficult to measure to a nicety
10 what exactly is necessary to stop an attack.

11 You're free to go.

12 JOSEPH RAMSAROOP: Yes. Thank you, Ma'am.

13 THE COURT: Yes. Unless there's anything
14 else?

15 Mr. Ramgoolam, I hope to see you around quite a bit
16 more.

17 MR. RAMGOOLAM: Deeply obliged, My Lady.

18 THE COURT: Yes.

19 MR. RAMGOOLAM: Hope to be around.

20 THE COURT: State Counsel.

21 MRS. LALOO-CHONG: Yes, My Lady.

22 THE COURT: I maintain that this was a
23 triable issue.

24 MRS. LALOO-CHONG: Yes, My Lady.

25 THE COURT: It really was.

26 COURT OFFICER: Court stand.

27 THE COURT: Take care everybody.

28 MR. RAMGOOLAM: Obligated.

29 MRS. LALOO-CHONG: Obligated.

30 **(PROCEEDINGS CONCLUDED AT 10:48:42 A.M.)**

DECLARATION VERIFYING TRANSCRIPT

I, **SABRINA SADANAN** of **COURT REPORTING SERVICES UNIT, JUDICIARY OF TRINIDAD AND TOBAGO**, do solemnly and sincerely declare, that having been required to furnish a transcript relating to the trial or other proceedings namely,

Case Caption: **THE STATE**

v

JOSEPH RAMSAROOP

Case Number: **CRS 060/2005**

Date of Proceedings: **FRIDAY, 31ST JANUARY 2020**

from the audio recording made of such trial or other proceedings, I certify that the preceding transcript, consisting of 07 pages is a correct and complete transcript thereof in pursuance of the said requirement.

And I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Act, and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false, I am liable to fine and imprisonment.

Dated this 6th day of February 2020

Signed: _____

Before me: _____

Ex officio Commissioner of Affidavits