

Mosses v. The Queen, Privy Council Appeal 13 of 1969, S. C. 3/68 (Bribery)-D. C. Colombo, 29/B Decided on 27/10/1971.

Evidence-Charge of bribery-Previous conviction- Inadmissibility-Participants in offence-Weight of their evidence -Courts Ordinance (Cap. 6), s. 36 Criminal Procedure Code (Cap. 20), s. 425-Evidence Ordinance, s. 54 -Bribery Act (Cap. 26), ss. 20, 79 (1).

Viscount Dilhorne, Lord Hodson, Lord Simon of Glaisdale, Lord Cross of Chelsea and Lord Kilbrandon,

Accused –appellant appealed against the prosecution admitting that the conviction of the appellant must be quashed on the ground that the evidence of the previous conviction, which was inadmissible according to section 54 of the Evidence Ordinance, had been taken into account in the trial Judge's judgment and was in a high degree prejudicial to the appellant.

Held;

*Ibrahim v. The King*¹ [1914] A.C. 599 at 615 " something which . . . deprives the accused of the substance of fair trial and the protection of the law ".

*Lejzor Teper v. The Queen*² [(1952) A.C. 480 at page 491] -" It is a principle of the proceedings of the Board that it is for the appellant in a criminal appeal to satisfy the Board that a real miscarriage of justice has occurred."

Section 54 of the Evidence Ordinance which provides: In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant."

Finally it is at least doubtful whether the quality of the prosecution witnesses was properly estimated by the District Judge. If bribery had been established, they would have been involved in it as and there is nothing in the Bribery Act section 79 (1) which of itself enhances their credibility.

Appeal allowed.