

1932

Present: Dalton J.

KING v. LOGUS

7—D. C. (Crim.) Colombo, 9,939.

Finger prints—Charge of housebreaking—Evidence of finger prints on glass pane—No explanation by accused—Inference of guilt.

Where, in a charge of housebreaking and theft, the only evidence against the accused was the finding of his finger prints on the glass pane of a door inside the house.

Held, that, in the absence of any explanation by the accused as to how his finger prints came to appear on the glass pane, the Court was justified in concluding that the accused was one of the burglars.

A PPEAL from a conviction by the District Judge of Colombo.

H. V. Perera for second accused-appellant.

Wendt, C.C., for the Crown.

April 29, 1932. DALTON J.—

The second accused has been convicted with two others for committing house-breaking by night on May 30, 1931, and committing the theft of cash and jewellery, the property of the owner of the house and others. The appellant is the second accused, the first and third accused not appealing from their convictions. The only evidence against the second accused is the finding of certain finger prints upon the glass panes of the door inside the house, the door leading from the hall to an inner room. Counsel for the appellant is not prepared to contest the conclusion that the finger prints are the finger prints of the second accused, but he strenuously urges that the finding of the finger prints is no proof that the second accused was in that house on the day or night of the burglary. There is evidence to show that the second accused is not in the habit of going into that house, which evidence is not controverted by the second accused himself. The second accused was not called as a witness and gave no evidence. The question to be decided is whether the learned District Judge was justified in inferring from the fact that the finger prints were found on a door inside the house that the second accused was one of the thieves. I may also point out that exactly similar evidence

of finger prints found on a glass mirror was the only evidence against the third accused. Stress was also laid upon the fact that the first accused had made no reference to the second accused in the statement he made about the burglary. I do not think that that matter is of importance. The learned District Judge has concluded from the finger print evidence against the second accused that he was one of the burglars. There is no evidence how long finger prints remain on glass panes. The glass pane in question was at a height of 5 ft. 6 in. above the ground, which itself was above the head of the second accused, who appears to be a short man, but it would have been quite a simple matter for the second accused, as the evidence shows, to put his hand against the glass pane, pushing the door open or helping the others to open it. In the absence of any evidence whatever by the second accused that he ever was in that house before or that he was entitled to go there, it seems to me the learned District Judge was entitled to infer from the finger prints upon the door that he was one of the burglars on the night in question. It is not necessary to say anything further than that the accused himself has given no evidence to explain as has been suggested, that the finger prints might have been put there on some other occasion when he was there innocently, and in the absence of that evidence, I think the learned District Judge was entitled to conclude that the accused did participate in the burglary. The appeal must therefore be dismissed.

Affirmed.
