

Q.8 You said a minute ago that he took down your statement?

A.8 Not right then sir.

Q.9 Did L/Cpl Mansell question you at any other time?

A.9 No sir.

Q.10 He only questioned you once?

A.10 Yes sir.

Q.11 Can you definitely say that you were cautioned before or not prior to the questioning by L/Cpl Mansell?

A.11 No I was not sir.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS RETIRES

L/Cpl Mansell is recalled and questioned by the court

Q.11 L/Cpl Mansell at the time when you first met the accused for the first time when you put this question to him at the Columbia house before that had you been talking to Pte Gaunt?

A.11 Yes sir.

Q.12 It was from that conversation that you went and met the accused?

A.12 Yes sir.

Q.13 At that time when you were talking to the accused and you put this question to him had you it in your mind you were going to place him under arrest?

A.13 No sir.

Q.14 As the result of the answer the accused made to your question what did you do then?

A.14 I apprehended him sir.

Q.15 You arrested him?

A.15 Yes sir.

Q.16 Where did you take him?

A.16 To the central lock up, Steel Cross Lane.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

The Judge Advocate advises the court

Mr. President and Gentlemen, I want to give you the law dealing with the admission of the statement which is alleged to have been made by the accused to L/Cpl Mansell, and I wish to point this out, that if a statement has been obtained by a person in authority, then the Prosecution must satisfy the court that it was not in fact induced by any fear of prejudice or hope of advantage. I also want to point out to you that whenever a police officer is endeavouring to discover certain facts in relation to the accused, he should first caution him before asking him any questions. That is the law and the court should close to consider as to whether or not the statement made by the accused is to be admitted.

The court is closed.

The court is re-opened

L/Cpl Mansell is recalled and questioned by the court

~~Q.11 What was the nature of the first question you asked the accused?~~

Q.17 What was the nature of the first question you asked?

A.17 Asked him if he was the man who had stolen the valise.

Q.18 Then what happened, did he reply?

A.18 He replied.

Q.19 No other conversation between you?

A.19 No sir, when he replied I cautioned him sir.

The court rules that the verbal conversation which took place between L/Cpl Mansell and the accused is not admissible.