S. Lotun   *Appellant*

v.

The Queen   *Respondent*

FROM

THE SUPREME COURT OF MAURITIUS

ORAL JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE
10TH APRIL 1989

Present at the hearing:-

LORD BRIDGE OF HARWICH
LORD BRANDON OF OAKBROOK
LORD OLIVER OF AYLMERTON
LORD GOFF OF CHIEVELEY
LORD JAUNCEY OF TULLICHETTLE

*[Delivered by **Lord Bridge of Harwich**]*

This is an appeal from a judgment of the Supreme Court of Mauritius whereby they, on 23rd March 1987, dismissed an appeal by the appellant against his conviction of certain criminal offences in the Intermediate Court of Mauritius on 30th May 1985. This is another unfortunate case where an incorrect procedure followed in the Mauritius Intermediate Court has led to a conviction which cannot be sustained. What was done in this case was that the criminal proceedings were commenced before a court constituted in one way and then, following one or more adjournments, the case was continued before a court constituted in a different way. The result was that the findings of guilt against the appellant, on which the convictions were based, were reached by magistrates who had not heard the whole of the evidence and the argument.

It is right to say that when this appeal was before the Supreme Court of Mauritius it had not had the advantage of having read the judgment of their Lordships' Board in the case of *Pierre Simon Andre Sip Heng Wong Ng (alias Wong) and Another v. The Queen* [1987] 1 W.L.R. at p.1356. It is unequivocally stated in that judgment that a procedure leading to findings of guilt being reached by a court so constituted that it has not heard the whole of the evidence is a procedure

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which cannot be sustained. It must follow therefore, as is very properly conceded by the Solicitor-General, that the convictions in this case cannot stand and their Lordships will humbly advise Her Majesty that the appeal ought to be allowed and the convictions set aside. The respondent must pay the appellant's costs before their Lordships' Board and in the Courts below.