

X

BETWEEN

NORGATE

1688

and
BAKER

Appellants

AND

POLICE

Respondent

Hearing: 13 December 1984

Counsel: Roberts for Appellants
Jones for Respondent

Judgment: 13 December 1984

(ORAL) JUDGMENT OF PRICHARD, J.

Each Appellant appeals against his conviction on two charges of theft of aluminium tyre mouldings from a Reidrubber tyre manufacturing plant at Penrose. The first conviction related to the theft of 900 kilograms of tyre mouldings on 17 January this year and the other to 2,000 kilograms stolen on 21 January this year.

Dealing first with the charges relating to 17 January, the evidence was that on that date, someone sold that quantity of aluminium tyre mouldings to a scrap metal dealer in Pakuranga. The lady who wrote out a receipt when the mouldings were brought to the scrap metal merchant gave evidence and produced a copy of the receipt

which she wrote out. But she was unable to identify in Court the persons who sold the metal. She did, however, note the registration number of the truck in which it was brought to the dealer's premises. That was a truck owned jointly by the Appellants. .

The second charge relating to 21 January depended on rather similar evidence. Early on that Saturday morning, two persons sold 2,000 kilograms of tyre mouldings to the same scrap metal merchant. The employee of the scrap metal firm who took delivery was unable to recognise either of the Appellants in Court. He said that one of the men gave his name as Halbrook. He also noted and recorded the registration number of the truck involved in the earlier transaction.

Later that Saturday morning the Appellants were caught by an employee of the tyre manufacturing company in the act of loading a quantity of aluminium castings on to their truck. They unloaded the aluminium and, as I understand it, no charge was laid in respect of that particular quantity of castings. It is, however, significant that when the 2,000 kilograms were delivered to the scrap metal merchant earlier that Saturday morning, the persons who delivered it said that they would be back with a further load. Later in the morning, they telephoned the scrap metal firm to say that there had been some trouble and that there would not be a second load of metal.

It is also relevant that both the Appellants had been previously employed by a contractor to work on the Reidrubber tyre premises and were therefore familiar with the building and its contents.

From that evidence the learned District Court Judge drew the inference that the Appellants were indeed the persons who had stolen the scrap metal on 17 and 21 January. He expressed himself as of the opinion that the evidence appeared to him to be perfectly conclusive.

In my view this evidence, regarded as a whole, was sufficient to raise an inference to the point where all reasonable doubt was excluded that these two Appellants had indeed stolen the tyre mouldings on the two occasions to which these charges relate. Accordingly, both appeals are dismissed.

James Piccolo J.