

CASE NO.**VOL. NO.****PAGE**

Cite as: R. v. Forrayi, 1997 NSCA 83

BRADLEY RODERICK FORRAYI

- and -

HER MAJESTY THE QUEEN

Appellant

Respondent

C.A.C. No. 115871

Halifax

ROSCOE, J.A.

APPEAL HEARD:

September 22, 1997

JUDGMENT DELIVERED:

November 5, 1997

SUBJECT:

CRIMINAL LAW - MURDER

SUMMARY:

The appellant was convicted of first degree murder of Michael Cassidy following a trial by judge and jury. The position of the Crown at the trial was that the appellant had acted alone when he broke into the victim's apartment late at night, stabbed him to death, then set the fire. The motive alleged was that the appellant had, during the previous five weeks, stolen more than \$12,000.00 from Cassidy's bank accounts by forging a series of cheques and that removing Cassidy as a witness would benefit the appellant.

The defence position presented to the jury acknowledged that the appellant forged the cheques and stole the funds, but submitted that he was merely an observer when the victim was killed by Paul Talbot, an associate of the appellant's. The suggested motive was that Talbot was angry that Cassidy had stopped the flow from the source of money which had been used to buy drugs for the two of them.

ISSUES:

The appellant submitted that the trial judge had erred in law by failing to instruct the jury on the included offence of manslaughter, on the proper use of the appellant's criminal record, and on the issue of the appellant's intoxication, and by failing to properly relate the theory of the defence to the jury and to adequately warn the jury of the dangers of accepting the evidence of certain Crown witnesses. It was also argued that the trial judge erred by admitting hearsay statements of the deceased and that the verdict was perverse and unreasonable.

RESULT:

Appeal dismissed. The Court of Appeal decided that the trial judge did not err in the decision to allow the admission of the

statements of the deceased, that the jury was properly instructed, and that the verdict was reasonable and supported by the evidence.

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