

CASE NO. **VOLUME** **PAGE**
Cite as: R. v. Tamang, 1998 NSCA 128

HER MAJESTY THE QUEEN - and - SURYA TAMANG
(Appellant) (Respondent)
C.A.C. No. 144393 Halifax, N.S. BATEMAN, J.A.

APPEAL HEARD: June 9, 1998

JUDGMENT DELIVERED: July 8, 1998

SUBJECT: **Crown appeal of order for stay of proceedings.**

SUMMARY: 30 months elapsed between the date of the charges and the date of trial.

ISSUE: Did the trial judge err in ordering a stay of proceedings?

RESULT: The trial judge found that the defence, by requesting adjournments, had waived a substantial portion of the elapsed time but erred in failing to deduct this period when considering whether the accused was entitled to a stay. Applying the criteria set out by the S.C.C. in **R. v. Morin** (1992), 71 (3d) 1, the delay here was not unreasonable. Deducting the waived period, the trial was held within a reasonable time and there were no other factors which would dictate a stay. Appeal allowed. Matter remitted for trial.

This information sheet does not form part of the Court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 16 pages.