

Facts case studies examples

[Law](#), [Evidence](#)



The Defendant had been estranged from the complainant, who was his wife. The wife, Marjory Damms was also separated from her mother. The defendant wanted to reconcile his wife and her mother, hoping that it would lead to reconciliation between himself and Marjory. On the morning of 6th April, 1959 the defendant drove to where Marjory stayed, and waited at a bus stop he knew she frequented. When she arrived he lied to her that her mother was unwell, and convinced her to get into his car. When they arrived at the mother's home, Marjory realized that the defendant had lied to her. They however sat for several hours talking but the talks were unfruitful. She expressed her intention to leave the house and go to work, and the defendant offered to drive her to work.

He however drove in another direction, and constantly threatened her about reconciliation. At some point Marjory tried to escape at which the defendant held an unloaded pistol in her head, and pulled the trigger. Marjory's screams attracted the attention of the police, who arrived at the scene and arrested the defendant. At trial the defendant testified that he knew the gun was unloaded as he saw the clip missing from the gun's butt. The police however testified that during the arrest the defendant had told them that he thought the gun was loaded. The defendant was convicted on the strength of the testimony of the police. The defendant then appealed.

Issue

Was the fact that it was not possible for the Defendant to commit murder because the gun was not loaded sufficient to bar the conviction of the offense of attempted murder, and if no, did the evidence establish the guilt of the defendant beyond reasonable doubt.

Holding

No, the fact did not preclude the conviction, and yes, there was evidence beyond reasonable doubt.

Reasoning

Majority of the judges were of the view that the defense of impossibility was not available for the defendant since he thought that the gun was loaded when he pointed it at Marjory's head. The Court treated the fact that the gun was unloaded as an extraneous factor, but for which the defendant would have succeeded in committing murder; thus this was an attempted murder. The Court also relied on the testimony of the police that the defendant had thought that the gun was loaded, thus when he pulled the trigger his intent was to kill Marjory.

The dissenting view was of the opinion that the defendant knew that the gun was not loaded, and thus he had no intent to kill Marjory as he knew the gun would not fire. They pointed out that the gun presented as an exhibit was clearly unloaded, and anyone with gun experience would know so. They also added that the defendant had numerous opportunities to load the gun, and therefore if at all he had the intent to kill Marjory, he would have loaded the gun.

Opinion

The decision of the majority placed more reliance on the testimony of the police than the real and circumstantial evidence. The gun produced as evidence was clearly unloaded. The police also stated that they had found a clip and bullets in the car. This raises doubt as to whether he really intended to kill without loading the gun and whether the testimony of the police was

true. Such doubts are reasonable, which means the prosecution did not prove its case beyond reasonable doubt.

Works cited