

Ghani & others v Jones [1969] 3 All ER 1700

Ghani and his family were subject to a murder investigation. They had their passports seized and were now applying for their return. The issue at hand was the seizure of goods when no one had been arrested. At the time there was no specific legislation covering the retention of the passports.

Lord Denning made the following comments which gave an insight into the thoughts of the judiciary regarding crime scenes, the seizure of evidence and serious crime.

'The robbers of a bank borrow a private car and use it in their raid, and escape. They abandon it by the roadside. The police find the car, i.e., the instrument of the crime, and want to examine it for fingerprints. The owner of the borrowed car comes up and demands the return of it. He says he will drive it away and not allow them to examine it. Cannot the police say to him: Nay, you cannot have it until we have examined it! I should have thought that they could. His conduct makes him look like an accessory after the fact, if not before it. At any rate it is quite unreasonable. Even though the raiders have not yet been caught, arrested or charged, nevertheless, the police should be able to do whatever is necessary and reasonable to preserve the evidence of the crime'

'Edmund Davies drew from his unrivalled experience and told us that the great train robbers, when they were in hiding at Leatherslade Farm, used a saucer belonging to the farmer and gave the cat its milk. When seeking for the gang, before they were caught, the police officers took the saucer so as to examine it for fingerprints. Could the farmer have said to them: "No, it is mine. You shall not have it"? Clearly not. His conduct might well lead them to think that he was trying to shield the gang. At any rate it would have been quite unreasonable.'

Another point raised was regarding finding a balance between the right to an individual's privacy versus the interest of the community or society at large. A more holistic approach.

What is the principle underlying these instances? We have to consider, on the one hand, the freedom of the individual. His privacy and his possessions are not to be invaded except for the most compelling reasons. On the other hand, we have to consider the interest of society at large in finding out wrongdoers and repressing crime. Honest citizens should help the police and not hinder them in their efforts to track down criminals. Balancing these interests, I should have thought that, in order to justify the taking of an article, when no man has been arrested or charged, these requisites must be satisfied.'

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