



arrest and assaulting a police officer. She was ordered back to the Girls' Home but absconded yet again on 9th July, 1988. She was apprehended on the 20th July, 1988 and taken before the Juvenile Court on the 22nd. On hearing that the Girls' Home was unable to contain Sophia and seriously feared for her safety the learned Magistrate ordered Sophia to be committed to an Approved School in Jamaica and to be detained in a place of safety pending transportation to Jamaica.

When she was taken to the place of safety it was discovered that Sophia is pregnant. In those circumstances no Approved School in Jamaica will accept her. It was in those circumstances that this appeal was preferred.

Faced with this situation, which was not within the knowledge of the Summary Court, this court has little alternative but to set aside the Approved School Order. What order should I then substitute? Unfortunately it is not clear from the record of the proceedings before the Magistrate what exactly the nature of the application before him was. It could be that he was purporting to deal with Sophia for both breach of Fit Person Order and breach of the Probation Order. There are no specific provisions for a juvenile to be dealt with for breach of Fit Person order. Although the margin note of section 20 of the Juvenile Law (16 of 75) refers to escapes from fit person, as well as approved school, the body of the section relates to approved school orders only and does not refer to fit person orders. I understand that a juvenile who absconds from a fit person is usually brought before the Juvenile Court under section

6 of the Law, as being beyond the control of his guardian. In the present case there is no note that such were the nature of proceedings before the learned Magistrate.

Nor was Sophia, it appears from the record asked to answer the complaints against her. She had a right to have the nature of proceedings explained to her and to respond to the accusations, and if she disputed them to have them strictly proved, if proved they could be.

From all the above, I am uncertain of the legality of the order made by the learned Magistrate in any event. I will order that the Approved School order be set aside. It is clear that the Fit Person Order is inappropriate and I understand that such order is to be discharged. This will leave the Probation Order in force and I understand Sophia, in her present condition, has shown improvement in behaviour which could bode well for the future.



D. Schofield

Judge of the Grand Court



24th August, 1988