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No: 201800746/C2

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Thursday 4 July 2019

B e f o r e:

LORD JUSTICE BEAN

MR JUSTICE CHOUDHURY

HIS HONOUR JUDGE POTTER

R E G I N A

v

SIRAJ AHMED PATEL

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(Official Shorthand Writers to the Court)

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The Applicant appeared in person

J U D G M E N T
(As approved)

1. JUDGE POTTER: On 18 November 2016 at Preston Crown Court, the applicant, after a fully contested trial, was convicted of four counts of sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003 and one count of meeting a child following sexual grooming, contrary to section 15(1) of the same Act. He received a total sentence of four years' imprisonment. The usual other ancillary orders were made, including a Sexual Harm Prevention Order.
2. In the present proceedings he applies for an extension of time in which to renew his application for an extension of time to apply for leave to appeal conviction and for leave to call witnesses after refusal by the single judge. The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions where a sexual offence has been committed against a person no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as a victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act. This has not occurred in this case and thus the prohibition remains in place. Our judgment will be anonymised accordingly in respect of the complainant in these proceedings, whom we shall refer to as AZ.
3. The facts of this case are as follows. On 10 November 2014, AZ, born on 11 April 1999, disclosed to her teacher that she had been subject to a sexual incident a few days previously on 7 November 2014. AZ stated that the offender was a male known to her called Siraj, the applicant who owned a take-away establishment in Lancaster. It was established that AZ had attended Lancaster Police Station on the evening of the incident. Officers had tried to obtain information from her, but she appeared to be in a confused state. Her father was called and she was taken home.
4. In 2013 there had been a police investigation involving AZ and the applicant. This arose following disclosure by AZ of contact and sexual activity by the applicant. AZ then voluntarily attended the police station and no further action was taken. However, following the fresh allegations the applicant was interviewed by the police. He denied the allegations in their entirety in his interview.
5. The prosecution case was that in addition to the earlier activity, over the months preceding the meeting on 7 November 2014, the applicant had been communicating with AZ. He had met her and sexual activity had taken place within his vehicle.
6. Count 1 on the indictment reflected the first incident in 2012/2013 when the applicant kissed AZ and touched her vagina and breasts over her clothing. The applicant had given AZ a lift in his car when the incident occurred. At the time AZ was aged 13.
7. Count 2 was a specimen count that on occasions other than in count 1 the applicant touched AZ's breasts and vagina. AZ explained that she had been in the applicant's car about three times before the incident on 7 November 2014.
8. Count 3 reflected an incident in the applicant's take-away van. There was a box of

condoms in the vehicle. The applicant put a condom onto his penis and tried to put AZ's hand onto his penis.

9. Count 4 alleged the applicant had been in repeated contact with AZ over a protracted period with a view to engaging in further sexual activity, and count 5 reflected the fact that such activity did then take place. Count 5 was the final incident. The applicant told AZ he was going to give her "proper sex". They got into the rear of the vehicle. AZ sat on top of the applicant. He undid her top and pushed up her bra. The applicant took hold of her breasts forcefully causing her bruising. The applicant took his penis out of his trousers and started to masturbate. He grabbed AZ's head and started pulling her head towards his penis as though he wanted her to perform oral sex upon him.
10. The prosecution case relied upon the evidence of AZ who said the applicant made her feel special, he gave her attention and made her feel happy. He had told her during the abuse not to tell anyone about their meetings.
11. The prosecution also relied on evidence from officers at the police station on the night of 7 November 2014 who had observed and spoken to AZ and on complaint evidence from teachers at AZ's school, the teachers then reporting matters to the police after AZ's complaint at the school given on 10 November 2014.
12. The prosecution relied upon evidence from the investigating officer, Police Constable Higham and upon an exchange of telephone calls and text messages between AZ and the applicant at the relevant time.
13. The defence case at trial was that AZ had fabricated these allegations. The applicant maintained the allegations were malicious and that he had been set up by AZ and then blackmailed for money over the telephone. The applicant gave evidence at trial before the jury. Within this evidence he referred to a man called Ayeb Patel whom he, the applicant, suggested had been involved in serious offending in a subsequent attempt to blackmail the applicant. The applicant also called evidence from his wife at trial and relied upon his lack of any relevant convictions.
14. The applicant was convicted at trial. The jury accepted the evidence of AZ as being credible. They rejected the evidence of the applicant.
15. Seven months out of time to renew his application for an extension of time, which in itself was 425 days out of time, the applicant now seeks to renew his application for leave to appeal his conviction. He has done so in the content of various documents that he sent to the court which we have considered very carefully. In particular, correspondence dated 13 February 2018 and 22 March 2018, the content of which he has in terms repeated in a recent email to this court dated 27 June 2019. Today the applicant makes further verbal submissions to us, he appearing in person.
16. The first two items of correspondence to which we have just referred were considered by the single judge who refused leave. We do not propose to repeat in detail the contents of

either of these two letters from the applicant or the recent email from him to the court or indeed the long, helpful and fair reasons given by the single judge, in our judgment, refusing leave within the section 31 proceedings.

17. We agree with the reasons given by the single judge. We adopt them in their entirety in this judgment. It is clearly apparent from our consideration of the material that we have seen in this case that the trial was fair and in particular the summing-up to the jury by the trial judge was balanced, helpful in relation to the issues the jury had to consider, and entirely appropriate. It was in many ways a model summing-up in cases of this kind.
18. Those matters the applicant raises by way of lack of disclosure simply have no merit given their likely lack of relevance to the issues for the jury to have considered at trial and his wish to call as a witness Mr Patel whom the applicant implicated in his evidence at trial in serious offending is fanciful in relation to how it may assist the applicant's case.
19. The single judge was correct to refuse an extension of time in this case. The application for an extension, given the time that has passed and the merits of this appeal, was entirely hopeless. Even if the single judge had granted such an application however, we take the view that the appeal against conviction in this case has no merit whatsoever. We refuse leave accordingly.
20. The applicant has served half of the sentence imposed upon him and has now been released on licence, hence his appearance before us today. In the circumstances, despite the views of the single judge, we decline to make a loss of time order in this case and we will not make any order for payment of the costs of the transcripts, despite our views on the merits of the application.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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