IN THE SUPREME COURT OF NEW ZEALAND

SC 65/2005
[2005] NZSC 72

DEVANAND SOLANKI

v

THE QUEEN

Court: Elias CJ and Tipping J

Counsel: T Sutcliffe for Appellant
A Markham for Crown

Judgment: 22 November 2005

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] During the course of his trial in the District Court, the appellant pleaded guilty to a charge of assault. The assault was of a relatively minor kind but was an assault nevertheless. Repenting of his plea, the appellant appealed against his conviction to the Court of Appeal. That Court dismissed the appeal, holding that no miscarriage of justice had occurred. The appellant now seeks leave to appeal to this Court.

[2] The Court of Appeal found that even on the basis of the evidence of the appellant, he had in law committed an assault on the complainant. In support of his application for leave to appeal to this Court, the appellant raises issues of fact particular to his case. No matter of fact, or indeed of law, which this appeal is said to raise, can possibly be regarded as amounting to a matter of general or public importance for the purposes of s 13(2) of the Supreme Court Act 2003.

[3] In so far as the appellant suggests that a substantial miscarriage of justice may have occurred or may occur unless the proposed appeal is heard, we are satisfied that this is not so. Even on the appellant's own version of events the Court of Appeal was fully entitled to come to the conclusion that he did commit what in law amounts to an assault. No feature surrounding the entry by the appellant of his plea of guilty persuades us that anything approaching a substantial miscarriage of justice can be suggested in this case.

[4] It is not necessary in the interests of justice for this Court to hear and determine the proposed appeal. The application for leave must therefore be dismissed.

Solicitors:
T Sutcliffe, Hamilton for Appellant
Crown Law Office, Wellington