IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 76/2025
[2025] NZSC 137

BETWEEN	NALESH NITIN REDDY Applicant
AND	THE KING Respondent

Court: Glazebrook, Ellen France and Williams JJ

Counsel: D P Hoskin and T M Newman for Applicant
M K Regan for Respondent

Judgment: 14 October 2025

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

Introduction

[1] Following a jury trial, Mr Reddy was convicted of one charge of kidnapping, one representative charge of sexual violation by rape and one representative charge of sexual violation by unlawful sexual connection (anal penetration). The charges arose

from his repeated rape and anal penetration of the victim, Ms V, over a two-day period at his home in October 2021.[1]

[2] At Mr Reddy's trial, propensity evidence was adduced of similar allegations made by another complainant, Ms P. These concerned events in 2004 which had resulted in charges of abduction, sexual violation and indecent assault. After a trial in 2016, Mr Reddy had been acquitted of all charges relating to Ms P, except one charge of sexual violation by rape where the jury was unable to reach a verdict. At a retrial in 2017 Mr Reddy was acquitted of the remaining charge.

[3] On 27 June 2025, Mr Reddy's appeal against conviction for the offending against Ms V was dismissed by the Court of Appeal.[2] There were two grounds of appeal: that the introduction of the propensity evidence was an error that led to a miscarriage of justice and that the jury's verdict was unreasonable.[3]

[4] Mr Reddy applies for leave to appeal on the basis that the Court of Appeal was wrong to find the propensity evidence was admissible.

Court of Appeal decision

[5] With regard to the propensity evidence ground of appeal, the Court of Appeal held that the evidence had been properly admitted.[4] The Court also held that the propensity issues had been dealt with appropriately in the summing up.[5]

[6] The Court rejected the contention that the propensity evidence and Ms V's allegations were fundamentally different in kind. The Court held that, while the background circumstances were different, there were a number of similar features. Both Ms P and Ms V alleged they were effectively detained by Mr Reddy using threats associated with a weapon to coerce compliance.[6] In both cases Mr Reddy was said to

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1 Mr Reddy was acquitted of one further representative charge of sexual violation by unlawful sexual connection (oral penetration).
2 *Reddy v R* [2025] NZCA 277 (Campbell, Venning and Eaton JJ) [CA judgment].
3 At [3]. The circumstances of the offending against Ms V are set out at [6]–[11]. The propensity evidence relating to Ms P and the trials relating to that evidence are discussed at [14]–[23].
4 At [46].
5 At [47]. There had in any event been no challenge to the directions given by the trial Judge.
6 At [29]–[30].

have abducted or detained the complainants and sexually offended against them while they were isolated.[7] The Court of Appeal also accepted that there were features of the alleged offending in both cases that were unusual:[8]

> It is unusual for a person to detain women who are strangers (or only just known to them), to use threats and the presence of a weapon to commit sexual offending against them and then return them home (or to where they had been picked up) after giving or offering them money.

[7] The Court also pointed to other "odd features common to both incidents", including the allegations that, "at times during the course of the detention, Mr Reddy carried out ordinary conversations with both Ms P and Ms V as though they were in a consensual or normal relationship".[9]

[8] The Court said that "[a]n acquittal does not necessarily reduce the probative value of propensity evidence": the admissibility turns on the balance of the probative value of the evidence as against its unfair prejudicial effect.[10] The Court noted that there could be no suggestion of collusion between Ms P and Ms V.[11]

[9] The Court of Appeal considered that, taking into account the time gap between the two sets of alleged offending and the fact there was only one previous incident, the probative value was of "medium value".[12]

[10] In terms of whether the probative value was outweighed by the unfair prejudicial effect, the Court did not consider that Ms P's evidence was likely to predispose the jury against Mr Reddy unfairly. Nor would the jury have given it disproportionate weight. The jury were aware that Mr Reddy had been acquitted with regard to Ms P's allegations.[13] The Court was also satisfied that the evidence relating to Ms P, which took one day in the context of a two-week trial, would not have overwhelmed the jury.[14] In addition, the evidence with regard to the charge against

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7 At [31].
8 At [36].
9 At [37].
10 At [38] referring to *Fenemor v R* [2011] NZSC 127, [2012] 1 NZLR 298 at [7] and [23].
11 At [39].
12 At [40]. This differed from the pre-trial decision in the District Court which had held the probative value to be "moderately high": *R v Reddy* [2023] NZDC 25232 (Judge Sellars KC) at [24].
13 CA judgment, above n 2, at [42].
14 At [44].

Ms V was graphic, meaning the risk of Ms P's additional evidence unfairly predisposing the jury against Mr Reddy was low.[15]

The submissions

[11] Mr Reddy submits that there are no existing cases that deal squarely with a case, like Mr Reddy's, where Ms P's allegations were tried before a jury in two separate trials resulting in full acquittals. It is submitted that the proposed appeal would give this Court the opportunity to develop the law relating to the admissibility of previous acquittal evidence. It is also submitted that the admission of the propensity evidence led to a miscarriage of justice. Mr Reddy seeks to challenge the Court of Appeal's findings, both on the probative value of the propensity evidence and the extent of unfair prejudice.

[12] The Crown opposes the application for leave. It submits that there is no special rule for acquittal evidence following multiple prior trials: the probative value of prior acquittal evidence is assessed in the same way as any other propensity evidence. In this case the propensity evidence was properly admitted and there is no risk of a miscarriage of justice. In any event, the propensity evidence was only one strand of what was otherwise a compelling Crown case.

Our assessment

[13] The law on prior acquittals and how that affects the admission of propensity evidence is settled.[16] Whether the acquittals arose from one or multiple trials must be irrelevant. There is thus no point of general or public importance arising.[17] Nothing raised by Mr Reddy throws doubt on the Court of Appeal's application of the test in s 43 of the Evidence Act 2006 to the facts of his case or suggests that there is a risk of a miscarriage of justice.[18] The test for leave has therefore not been met.

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15 At [45].
16 *R v Degnan* [2001] 1 NZLR 280 (CA); and *Fenemor v R*, above n 10.
17 Senior Courts Act 2016, s 74(2)(a).
18 Section 74(2)(b).

Result

[14] The application for leave to appeal is dismissed.

Solicitors:
Steindle Williams Legal, Auckland for Applicant
Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent