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IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 9/2026
[2026] NZSC 101**

BETWEEN	LEE EDRI Applicant
AND	THE KING Respondent

Court:	Williams and Kós JJ
Counsel:	S J Galler and S W Walker for Applicant M R L Davie for Respondent
Judgment:	7 August 2026

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Edri was found guilty by a jury of one charge of sexual violation by rape. On 17 April 2025, he was sentenced to eight years and three months' imprisonment by Judge E P Paul.¹ On 18 December 2025, the Court of Appeal dismissed his conviction appeal but allowed his sentence appeal, substituting a sentence of six years and 10 months' imprisonment.² Mr Edri now applies for leave to appeal his conviction to this Court.

¹ *R v Edri* [2025] NZDC 13421.

² *Edri v R* [2025] NZCA 688 (Cooke, Tracey Walker and Cull JJ).

Background

[2] Mr Edri and the complainant were both attending a birthday celebration. The complainant became grossly intoxicated. She was taken upstairs to bed by her flatmates, where she was left fully clothed. The Crown case was that, shortly afterwards, Mr Edri entered her bedroom and raped her while she was unconscious. The complainant did not directly recall being raped but she awoke the next day experiencing vaginal and anal pain and noticed a stain on her sheets. A later medical examination detected Mr Edri's DNA on a vaginal swab taken from her.

[3] Mr Edri and the complainant exchanged friendly Facebook messages over the following days. The complainant did not accuse Mr Edri of any wrongdoing. The Crown suggested the exchange demonstrated Mr Edri testing whether the complainant recalled being sexually violated. The defence suggested that it represented genuine mutual interest and was consistent with consensual sexual activity, which was Mr Edri's case at trial.

[4] Mr Edri gave evidence. He recalled consensual oral sex with the complainant and accepted that, given the DNA evidence, sexual intercourse must also have occurred.

[5] Mr Edri seeks leave to appeal on two grounds. First, he says the trial Judge's summing up was unbalanced and partisan.³ Second, he says that trial judges should no longer be permitted to "opine on disputed facts that are in the province of the jury, unless in special circumstances".⁴

[6] In relation to the first proposed ground, Mr Edri identifies several passages of the Judge's summing up as problematic. His complaints include that the Judge omitted reference to relevant defence submissions and evidence, including Mr Edri's evidence when summing up on consent, and was dismissive of the significance of other defence submissions; that the Judge unnecessarily made comments that risked evoking sympathy for the complainant; that the Judge expanded on the Crown case in summing

³ This argument was the basis for the conviction appeal in the Court of Appeal.

⁴ This argument was not advanced in the Courts below.

up by emphasising the complainant's willingness to disclose to police potentially problematic Facebook exchanges when that willingness had not been a feature of the Crown's closing address; and that the Judge implied that if the jury disbelieved the defence case, the Crown case would necessarily prevail.

Assessment

[7] We accept that specific aspects of the Judge's summing up, when taken in isolation, appeared to lack balance. Nevertheless, when the summing up is read as a whole, we are not persuaded that the examples of imbalance identified by Mr Edri are such as to create the prospect of a substantial miscarriage of justice.⁵ In particular, we are satisfied that the summing up correctly identified the fundamental facts in issue and was balanced in its treatment of the opposing contentions with respect to those facts when viewed overall.⁶

[8] In respect of the second proposed ground, we accept that the scope in jury trials for judicial comment on the facts may raise an issue of general or public importance justifying leave in an appropriate case.⁷ However, for the reasons just traversed, we do not consider this to be an appropriate case in which to consider that question.

Result

[9] We conclude that it is not necessary in the interests of justice for this Court to hear and determine the proposed appeal.⁸ The application for leave to appeal is dismissed.

Solicitors:

Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent

⁵ Senior Courts Act 2016, s 74(2)(b).

⁶ See *R v Keremete* CA247/03, 23 October 2003 at [18].

⁷ Senior Courts Act, s 74(2)(a).

⁸ Section 74(1).