

IN THE SUPREME COURT OF NEW ZEALAND

**SC 79/2010
[2010] NZSC 122**

RUPINDER SINGH CHAHIL

v

THE QUEEN

Court: Blanchard, McGrath and William Young JJ

Counsel: D P H Jones QC for Applicant
A Markham for Crown

Judgment: 28 September 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The proposed ground of appeal against the dismissal by the Court of Appeal of the applicant's appeal against conviction on kidnapping charges is that the Crown prosecutor, in cross-examining a witness and in his closing to the jury, treated an out-of-court statement of a co-accused as if it were admissible against the applicant. It is not suggested that this was deliberate misconduct by the prosecutor who had come into the case part way through the trial to replace a lead prosecutor who had fallen ill.

[2] Counsel for the applicant at trial pointed out to the jury during his closing submissions that the statement was not admissible against the applicant and the trial Judge backed this up with firm directions on the point. So, even if the jury had earlier been under the wrong impression, they were certainly clearly directed that the statement was admissible only against the co-accused.

[3] The law on this question is settled, having been reaffirmed in s 27 of the Evidence Act 2006. The case raises no question of general principle. The Court of Appeal has correctly stated the law on the point. There is no appearance of any miscarriage of justice.

[4] The proposed sentence appeal similarly does not give rise to any issue of principle. The sentence, as adjusted by the Court of Appeal, was one which was open on the facts of the case.

Solicitors:
Cook Morris Quinn, Auckland for Applicant
Crown Law Office, Wellington