

IN THE SUPREME COURT OF NEW ZEALAND

SC 77/2017
[2017] NZSC 148

BETWEEN ZHITONG LI
 Applicant

AND THE QUEEN
 Respondent

Court: William Young, Glazebrook and O'Regan JJ

Counsel: W C Pyke for Applicant
 Z R Johnston for Respondent

Judgment: 4 October 2017

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was found guilty at trial of 14 charges of dealing in pseudoephedrine and two charges of possessing for sale and selling methamphetamine. His appeal to the Court of Appeal against conviction was confined to the methamphetamine charges.¹ That appeal was dismissed and he now seeks leave to appeal against the Court of Appeal judgment.²

[2] The methamphetamine charges were based substantially on an intercepted telephone discussion between the applicant and another person and contextual background evidence provided by a detective. While there was scope for argument as to what could be fairly inferred from what was said, it was well-open to inference that the conversation proceeded on the basis that: (a) the applicant was in possession of a controlled drug which he intended to sell; and (b) the drug was probably not

¹ *Li v R* [2017] NZCA 272 (Cooper, Woodhouse and Collins JJ) at [2].

² At [55].

pseudoephedrine; but (c) had some connection with pseudoephedrine. As will be apparent, the jury drew the further inference that it was methamphetamine.

[3] There are two proposed grounds of appeal. The first is that the jury's verdict was unreasonable and the second that the primary direction by the trial Judge as to inferences was in respect of another defendant. The same arguments were advanced to the Court of Appeal.³

[4] In dealing with whether the jury's verdict was unreasonable, the Court of Appeal applied orthodox principles.⁴ Its application of those principles is challenged primarily in respect of the result. No point of general or public importance arises and we see no indication of a miscarriage of justice.

[5] The challenge as to the absence of an inference direction specific to the applicant was dismissed by the Court of Appeal on the basis that there was no need for the trial Judge to repeat the direction which he had already given in respect of the other defendant.⁵ Again no question of general or public importance is raised and there is no appearance of a miscarriage of justice.

[6] The application for leave to appeal is accordingly dismissed.

Solicitors:
Bryce Bluett, Hamilton for Applicant
Crown Law Office, Wellington for Respondent

³ At [22] and [43].

⁴ At [32]–[42].

⁵ At [51].