

Caught in a Trap

Imagine that you are a celebrity, with a series of valuable brands and endorsements to your name, only to find yourself facing a serious criminal charge. Could your situation get any worse? What about if someone has tricked you into committing an offence you would have otherwise been unlikely to commit? What effect could evidence of such a malpractice, known as “entrapment”, have on Court proceedings? Alan Ma investigates with reference to a recent Crown Court case.

Under English law, entrapment in itself does not constitute a defense against a criminal charge. However, where a judge feels that such an act amounts to an abuse of the criminal justice system, they have the power to bring court proceedings entirely to a halt. The sudden collapse of a recent drugs trial involving singer Tulisa Contostavlos demonstrates the seriousness with which the English Courts view the inducement of a party to commit a criminal act.

Entrapment

When Miss Contostavlos was offered £3.5 million to star alongside Leonardo DiCaprio in a new Bollywood film, she was given no reason to suspect that the deal was anything but genuine. Undercover journalist Mazher Mahmood went to great lengths to convince the former N-Dubz member that he was really a renowned Bollywood film producer, arranging meetings with her in high-end hotels and restaurants all over the world. It was June 2013 when The Sun on Sunday newspaper first ran its story accusing the star of being a drugs fixer, stating that she had arranged for her friend Mike Coombs to supply half an ounce of cocaine to Mr Mahmood in a London hotel. Miss Contostavlos denied her official charge of being “concerned in

the supply of Class A drugs”, arguing that evidence against her had been recorded while she thought she was auditioning for the part of a disadvantaged girl from the slums. She added that she had been led to believe that her chances of landing the lucrative part would be boosted if she made out to be a streetwise individual, in some way acquainted with the use of illegal substances such as cocaine. It was Mr Mahmood’s inconsistent evidence concerning the driver Alan Smith, who had taken Miss Contostavlos home one night during the sting, that persuaded the judge to bring a stop to proceedings. While Mr Smith originally indicated that he had overheard the singer expressing her disapproval of drugs, he later changed his evidence after discussing the matter with Mr Mahmood. The reporter was later forced to admit that he had, indeed, discussed the matter with the driver. In support of his verdict, Judge Alistair McCreath said, “Where there has been some aspect of the investigation or prosecution which is tainted in some way by serious misconduct to the point that the integrity of the Court would be compromised by allowing the trial to go ahead, in that sense the Court would be seen to be sanctioning or colluding in that sort of behaviour,

then the Court has no alternative but to say "This case must go no further." Mazher Mahmood has been suspended by The Sun newspaper pending internal investigations.

Dr Ma's Remarks

The judge's verdict in this case is significant because it illustrates the stringent approach the English legal system will adopt towards improper conduct of any kind at Court. In this case there was no good reason to suspect the defendant, only Mr Mahmood's desire to manufacture a story by any possible means. In this sense, the case also raises questions about the fairness of prosecution in the event that significant bait has been used to test the virtue of an otherwise innocent party.

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