

Neutral Citation Number: [2006] EWCA Crim 1743
IN THE COURT OF APPEAL
CRIMINAL DIVISION

No: 2006/1882/A2

Royal Courts of Justice
Strand
London, WC2

Wednesday, 5 July 2006

B E F O R E:
LORD JUSTICE SCOTT BAKER
MR JUSTICE MITTING

THE COMMON SERJEANT OF LONDON
(HHJ BARKER QC)
(Sitting as a Judge of the CACD)

R E G I N A

-v-

ELIDA NAZIFI

Computer Aided Transcript of the Stenograph Notes of
Smith Bernal Wordwave Limited
190 Fleet Street London EC4A 2AG
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

MISS A KELLY appeared on behalf of the APPELLANT

J U D G M E N T

1. MR JUSTICE MITTING: In February 2006 the appellant, a woman of 36, of Kosovan extraction and of previous good character and a mother of a two-year-old son, had a brief intimate relationship with a Kosovan man which included two acts of consensual sexual intercourse. She lent him £1,250. When he did not repay it during the time agreed she said to him that she "would do something he could not imagine" if the money was not repaid. He did repay it by leaving it at her house on the night of Sunday 19th February. Before he did, and on the same day, the appellant contacted the police and made a complaint in detailed and convincing terms that she had been raped on 13th February by a man posing as a gas man in front of her two-year-old son. After doing so he had taken £1,250 cash from the top of a chest of drawers at the foot of her bed. She gave a good description of the alleged rapist and of the van in which he arrived, saying that she had been told that it was owned by the Kosovan man and naming him. She did not undergo a medical examination because she was distressed and needed to care for her son.
2. At 7.20 pm on 19th February, the Kosovan man was arrested on suspicion of rape and interviewed. He gave a true account of his relationship with the appellant, including the circumstances in which she had made and he had repaid the loan. He spent 20 hours in custody.
3. On the morning of 20th February, before he was released, the appellant telephoned the police to say that the £1,250 had been posted through her letter box and that she did not want to make a formal statement against the man. She said that she had received a threatening call from his mother. She made a withdrawal statement.
4. At 4.00 pm she telephoned the police and told them that she had lied. She said that she had made the accusation to get her money back from the man.
5. The pre-sentence report recommended a community order. A medical report said that she had been suffering from depression and anxiety for which she had been referred for counselling and prescribed medication.
6. On 27th March 2006, having pleaded guilty at the earliest opportunity, she was sentenced by His Honour Judge King to 15 months' imprisonment for doing an act tending and intended to pervert the course of justice.
7. In her helpful written advice, Miss Kelly referred to a line of authorities culminating in [Merrett](#) [2006] 1 Cr.App.R (S) 105 which includes [Gregson](#) [1993] 14 Cr.App.R (S) 85. The authorities consistently demonstrate that an immediate custodial sentence for this type of offence is invariably required, whatever the personal circumstances of the woman making the false complaint. But those circumstances may be taken into account when assessing the length of the sentence.
8. The facts of this case are not in principle dissimilar to those of [Gregson](#). The man in particular spent approximately the same period in custody as this man. In that case nine months' imprisonment was reduced to four; the sentence that was also arrived at in [Merrett](#). The addition of a financial motive for the offence in this case is, in our view, an aggravating feature, giving the offence some characteristics of blackmail. For that

reason we would not be able to reduce the sentence to the four months held appropriate in Gregson or Merritt, but we do determine that a sentence of six months' imprisonment would meet the justice of the case and the appellant's circumstances. Consequently, we quash the sentence of 15 months' imprisonment and substitute for it a sentence of six months' imprisonment.

<http://www.bailii.org/ew/cases/EWCA/Crim/2006/1743.html>