

Man wins \$20,000 after girlfriend claimed he made her get breast implants and that he raped her

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A man was accused of forcing a woman to crawl around Cornwall Park naked, on her hands and knees, like a dog. Photo / Greg Bowker



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Exclusive: Man awarded \$20,000 after judge finds flaws in police investigation of "bizarre" sexual allegations by girlfriend

A man accused of forcing his girlfriend to get breast implants has been awarded \$20,000 by a judge who criticised the police investigation into her "bizarre" allegations.

The 27-year-old faced 36 serious criminal charges, including numerous violent assaults and rapes over a two-month period, and would have spent between 16 and 18 years in prison if convicted.

He was alleged to have locked the woman in his bedroom for three days without food or water, tortured her with pins until she bled, forced her to walk around Cornwall Park naked on her hands and knees leashed like a dog, and pressured her into breast surgery.

But the charges were dropped a week before the trial and the man took legal action against the police to recover some of the legal bill he spent fighting the case.

Judge David Sharp awarded him \$20,000 and defence barrister Graeme Newell told the *Herald on Sunday* he would ask the police to investigate the woman for laying a false rape complaint.

In his written decision, Judge Sharp described the late disclosure by police of medical evidence, which undermined the credibility of the complainant, as "negligent".

The woman alleged she was pressured into having breast implant surgery and then kidnapped for three days, where she was locked in her boyfriend's room, tied up, tortured and raped multiple times.

"The claim of kidnapping and abuse took place at a time either when, or very soon after, which the complainant was medically examined. The medical examination provided no indication of injury or discomfort," said Judge Sharp.

"This is inconsistent with what the complainant alleged in a way that undermines her evidence significantly.

The evidence of the post-operative checkup does to an extent establish the innocence of the defendant at least as far as the kidnapping charge is concerned.

"The undermining of that charge and the importance that that had upon the case overall is significant."

While the prosecution acted in good faith, Judge Sharp said the evidence was "insufficient" and the Crown acted appropriately in withdrawing the charges when the medical evidence came to light.

The case depended entirely on the credibility of the complainant, which Judge Sharp said was "seriously questioned" by a number of factors including allegations which "could be described as bizarre" and a financial dispute between the pair.

The alleged sexual offending, described as "depraved", took place over two months during a consensual romantic relationship over nearly a year.

This long timeframe of "bizarre" abuse was described as "unusual" by Judge Sharp, although the police maintained this was because the man held a psychological grip over the woman.

The violent sexual abuse allegedly occurred between August and October 2013 and the relationship ended in March 2014.

The next month, the woman laid a complaint and he was arrested nearly a year later in February 2015. The charges were dropped in November 2015.

As part of the application for costs, Newell said the financial dispute was a motive for a false complaint.

Bank and travel records corroborated part of the complainant's story and her credibility had been expertly assessed, the Crown said.

"Hindsight may now provide reasons not to accept her evidence but at that time police relied on what she told them. To have not regarded them seriously would have been a major mistake."

Newell was particularly critical of the decision of the police to oppose bail at the time his client was arrested.

In their opposition to bail, the police told the judge there was an audio recording of the boyfriend making an admission of guilt and a statement from an "eye witness" to the assault which caused the injury.

The man - who has no previous criminal record - spent two weeks in custody before being granted bail on appeal to the High Court.

In fact, he admitted causing the injury but accidentally.

The "eye witness" gave a statement which corroborated an injury suffered by the complainant, but not how it was caused.

"It was a serious error to describe the material captured on tape as providing admissions on the part of the defendant," said Judge Sharp.

"To suggest that the witness to the complainant's injury was an eye witness was a material misdescription.

"Although the prosecution has argued that these errors were not material as far as the bail decision was concerned and that the defence could have transcribed the recorded material themselves, it remains unacceptable to put false material before the Court in opposition to bail."

Taking everything into account, Judge Sharp concluded it was "more likely than not" that the man did not commit the offences alleged.

In response to the judgment, Detective Inspector Scott Beard said the police are "currently reviewing the file to establish what lessons, if any, can be learnt from the investigation".

Graeme Newell told the *Herald on Sunday* that the police inquiry suffered from "tunnel vision" and his client was forced to investigate matters which the police should have conducted before they charged him.

He had now instructed Newell to lay a complaint with the police.

"These were false allegations of rape, poorly investigated, which led to a young man with no criminal history finding himself in prison for two weeks.

"He faced a trial by jury and potential for 16 years in prison."

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