

CANADA / JUDGMENT

R. v. Sanghera

2012 BCSC 993

COURT

Supreme Court of British Columbia

DECIDED

27 March 2012

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2012 BCSC 993 R. v. Sanghera IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Sanghera, 2012 BCSC 993 Date: 20120327 Docket: 25797 Registry: Vancouver Regina v. Bobby a.k.a. Bobby Barjinder Singh Sanghera Navdip Singh Sanghera Charanjit Singh Rangi Savdip Singh Sanghera Jaspreet Singh Virk Before: The Honourable Madam Justice H. Holmes Oral Ruling on Admissibility of Evidence of Background and Context Counsel for the Crown: Mark J. Sheardown Alisia Adams Samiran P. Lakshman Counsel for the Accused, Bobby Barjinder Sanghera: Brian Coleman, Q.C. Jeremy H. Fung Counsel for the Accused, Navdip Singh Sanghera: David N. Fai Counsel for the Accuseds, Charanjit Singh Rangi and Savdip Sanghera: Colleen Elden Counsel for the Accused, Jaspreet Singh Virk: Adi Glouberman Place and Date of Trial: Vancouver, B.C. Dates ongoing Place and Date of Reasons: Vancouver, B.C. March 27, 2012

- [1] THE COURT: The Crown seeks to lead evidence of specific events which, it submits, give context and background to the events that are the subject of the charges.
- [2] The defence contends that the proposed evidence of previous events has no relevance to the issues in the trial, and that to admit it would send the trial into an approximately three-day diversion of ultimately no value.
- [3] The evidence would relate to the following events:
1. a fight or altercation at the Edgewater Casino on October 6, 2008, which was said to have involved Bobby Sanghera on one side, accompanied by Navdip Sanghera, and Aman Manj and Gopi Bains on the other side;
 2. shootings at two residences on November 1, 2008, one residence being that of Gopi Bains, who I will mention later; and
 3. the suspicious driving behaviour on November 2, 2008 of a Tahoe vehicle and two BMW vehicles, one of which was driven by Aman Manj (who I will also mention later), in the lane behind and circling around the area of the residence said to be Bobby Sanghera's.
- [4] The Crown says that the evidence would provide the necessary background and context for two sets of charges on the indictment

- [5] The first set consists of the first five charges on the indictment. Those charges arise from a police stop of a Chrysler on November 8, 2008, and allege that four of the accused (namely, all of the accused except Savdip Sanghera), were in the Chrysler and were in possession of three loaded handguns which the police found in an area behind the glove box. The Crown says that the proposed evidence would provide background or context directly supporting the Crown's theory that the four accused were on their way to commit a shooting in the course of a series of retaliatory attacks between two groups of people, one group involving Bobby Sanghera, Navdip Sanghera, and others, and the other group involving Aman Manj, Gopi Bains, and others. The Crown submits that the proposed evidence would also help establish animus or negative sentiment between the two groups, and therefore a motive for possession of the three guns on November 8, 2008.
- [6] I agree that the Crown may properly tender this evidence for this purpose. The Crown does not formally charge or allege a gang, in the sense of a criminal organization as defined in the Criminal Code, or an actual shooting. However, the situation is otherwise similar to the situation described by Justice Dambrot in *R. v. Riley*, [2009] O.J. No. 1374 (S.C.J.) at paras. 36-38: 36 As I have noted, the Crown submits that some of the impugned evidence is admissible because it is essential to the unfolding of the narrative of the Charlton and Bell shooting. I admit to some discomfort in admitting evidence on the basis of the claim that it is evidence of the narrative because "narrative" is a label that is too easily abused. Just because a piece of evidence can be labelled in this way does not make it admissible. But I do think that it is of fundamental importance that the Crown be permitted to lead the evidence of an alleged crime in a manner that permits the jury to understand and evaluate what actually transpired. A jury should not be expected to undertake an exercise that still has the search for truth as its goal by searching for that truth without the ability to understand what it is alleged that the accused were actually doing, and why they were actually doing it. 37 I find support for this view in *McWilliams Canadian Criminal Evidence* (4th ed. 2003), at pp. 9-19 - 9-20, under the heading "Lifestyle Establishing Involvement, Means or Opportunity." The learned authors state: Sometimes the lifestyle of the accused will be inextricably tied to the commission of the offence alleged, as is often the case with prosecutions involving organized crime or drug-related offences. While such evidence can be highly discreditable, its absence may render the trier of fact unable to put into context the accused's opportunity or means to commit the offence. Thus, in some cases, it is unavoidable that the prosecution adduce evidence as part of its case to set the milieu and activity of the accused and the other witnesses to show the context or narrative even though it reveals that they have been involved in criminal activity. 38 In this case, in my view, leaving aside the criminal organization charge, the Crown must be entitled to lead evidence that the accused were in a gang, that the gang was in a war with another gang, and that at least in part as a result of the killing of their leader, some of the gang members formed a squad with the general purpose of finding and shooting rival gang members. It will be recalled that the victims of this shooting were not in fact members of the rival gang. There will be evidence lead by the Crown that the accused were intending to shoot rival gang members on this occasion, and

shot non-members in error. Without this background, the jury will be left to puzzle over an allegation of a senseless shooting by individuals who had no motive to do it. They will inevitably be invited by the accused to find a reasonable doubt on the basis of the absence of motive when in fact, evidence of motive exists. While it is imperative that limits be placed on the bad character evidence sought to be introduced by the Crown, and that strong instruction be given to the jury about how to use the evidence that is admitted, I do not think that the jury should be expected to decide this case on the basis of some artificially crafted, antiseptic version of the case.

- [7] The weight to be given to the evidence and how, if at all, the inferences available from it may apply to each accused are matters for argument in the trial.
- [8] The Crown submits that some of the proposed evidence provides necessary context also for a second set of charges, namely the final five on the 14-count indictment. These charge Savdip Sanghera with three offences relating to the trafficking of a different handgun on January 31, 2009, and charge Navdip Sanghera with two offences relating to the possession of that same gun in the ten or so days before.
- [9] The evidence the Crown proposes to lead about the November 1, 2008 shootings at the Bains and the other residence will include forensic firearms analysis indicating that a gun used in those shootings is the gun which is the subject of the late January 2009 charges against Savdip Sanghera and Navdip Sanghera. The Crown submits that the events in October and November 2008 and the close connections between the Sanghera accused, increase the likelihood of Navdip Sanghera and Savdip Sanghera being in possession in late January 2009 of the gun used in the November 1, 2008 shooting.
- [10] Again, the value of this evidence and the Crown's chain of reasoning will be a matter for argument at the end of the trial. Care must be taken to avoid the propensity reasoning and potentially inadmissible inferences from the evidence which defence counsel identified in their submissions.
- [11] The evidence is nonetheless admissible on the basis outlined. "H. Holmes, J." The Honourable Madam Justice H. Holmes

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