

CANADA / JUDGMENT

R. v. Sanghera

2012 BCSC 994

COURT

Supreme Court of British Columbia

DECIDED

3 April 2012

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2012 BCSC 994 R. v. Sanghera IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Sanghera, 2012 BCSC 994 Date: 20120403 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 re Evidence Correcting Transcripts of Intercepted Communications 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. April 3, 2012

- [1] THE COURT: I am going to allow the evidence. The weight that it will receive is a matter for later determination. In my view, the evidence has the potential to fill gaps in the transcript where marks of "indiscernible" appear, and, for instances where Sergeant Chan's evidence about what he hears differs from what is shown in the transcript, to in effect correct the transcript.
- [2] It is common ground that the evidence is the audio recording, and that it is for the trier of fact to make the ultimate finding as to what words were spoken in the intercepted communications, as recorded on the audio recording. However, I do find that Sergeant Chan's evidence has the potential -- and I am emphasizing "potential", because I have not heard it yet -- to assist the Court in discerning what is said in the intercepted communications. He has spoken with some of the speakers many times in the general course of his duties as a police officer, sometimes at length, and has listened to thousands of the intercepted communications in the course of his responsibilities in this case. In my view, the proposed evidence is the type of secondary evidence discussed by the Ontario Court of Appeal in R. v. Shayesteh (1996), 111 C.C.C. (3d) 225 at 255, 31 O.R. (3d) 161 (albeit arguably in obiter, as Mr. Fai notes), which may be admissible because it is relevant and helpful to the trier of fact: ... evidence of voice identification is quite commonly introduced to assist the trier of fact in identifying the parties to the communication. As well, the quality of the tape is often such that a transcript, which has been prepared by a person who has repeatedly listened to the tape, may provide useful assistance to the trier of fact who is attempting to

decipher the message upon hearing the communication for the first time.

- [3] Mr. Coleman suggested that a preferable approach would be for the Court to indicate, as the intercepted communications are played in evidence, whether the Court hears any portion of the recording differently from as shown in the transcript. This would presumably require, for example, that if I were to hear something identifiable where the transcript says "indiscernible," I would so indicate, and the interpretation of that portion of the recording could then be a matter of further evidence or argument.
- [4] In my view, that would not be a practical approach in this case. The calls that are being played in evidence are numerous. In some of them, the speakers speak very rapidly. It would simply not be possible, wherever there is any doubt, from my perspective, about the accuracy of the transcript, to so indicate as the calls are being played.
- [5] I will allow the evidence to be tendered. Its weight is to be assessed later. "H. Holmes, J." The Honourable Madam Justice H. Holmes

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