

ENGLAND AND WALES / JUDGMENT

# R v Adil Malik

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Neutral Citation Number: [2025] EWCA Crim 1832 Case No: 202404019/B3 IN THE COURT OF APPEAL (CRIMINAL DIVISION) ON APPEAL FROM THE CROWN COURT AT KINGSTON UPON THAMES HHJ LODDER KC CP CASE NO 01VK108623 Royal Courts of Justice Strand, London, WC2A 2LL Date: 20 th November 2025 Before : LADY JUSTICE MAY MR JUSTICE MURRAY and HER HONOUR JUDGE TAYTON KC

- ----- Between : REX

- and - ADIL MALIK

- ----- Computer Aided Transcript of Epiq Europe Ltd, Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

- ----- MISSJ DANNHAUSER appeared on behalf of the Appellant MR J PRICE KC and MISS S SAUL appeared on behalf of the Crown

- ----- J U D G M E N T Approved Judgment WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice. The provisions of the Sexual Offences (Amendment) Act 1992 apply to this offence. Under those provisions, where an allegation has been made that a sexual offence has been committed against a person, no matter relating to that person shall, during that person's lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act. Approved Judgment Lady Justice May: 1. 2. On 24 October 2024 in the Crown Court at Kingston upon Thames, the appellant was convicted by a majority of 10 to 1 of three counts of rape, contrary to section 1(1) of the Sexual Offences Act 2003. On 3 October 2025 the appellant, then aged 33, was sentenced to a hospital order pursuant to section 37 of the Mental Health Act 1983 with a restriction order pursuant to section 41 of the same Act. He now appeals against his conviction with leave of the single judge. The single ground of

appeal is that the convictions are unsafe as the trial judge should have acceded to the defence submission of no case made at the close of the prosecution evidence. Reporting restrictions 3. The provisions of the Sexual Offences (Amendment) Act 1992 apply to this offence. Under those provisions, where an allegation has been made that a sexual offence has been committed against a person, no matter relating to that person shall, during that person's lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act. We shall refer to the complainant as "C" in this judgment. Facts of the offending 4. At around 30 minutes past midnight on 2 June 2020, C was walking by Richmond riverside having a telephone conversation on her mobile with her ex-boyfriend. She was aged 18. She sat on a bench. The appellant, who had followed her, came and sat next to her. They were not known to each other. A conversation began. In total C and the appellant spent around two-and-a-half hours together. At the first bench the appellant asked C to perform oral sex on him and she did so. They then walked together along the river path to a second bench. Here C again performed oral sex on the appellant, after which she removed her hoody and her trousers and the appellant had vaginal sex with her. C and the appellant continued walking along the river path until they reached Kew Green. On the way C had periodically texted a male friend, Joe. Once at Kew Green she asked Joe to call her, pretending to be her brother summoning her home. He did so, after which C called an Uber. The Uber arrived at 3.04 am. The appellant got into the cab with C and asked to be dropped off at Richmond Station. The appellant suggested they meet again in the park at 1.00 pm that day. C continued home where she telephoned her brother and told him a male had intimidated her into having sex with him. She then telephoned her sister and her friend Joe and told them she had been pressured into having sex. She reported to the police that she had been raped. She said she had been too scared of the appellant to say "no" to him. 5. The appellant was arrested later that day and was interviewed. He provided a prepared statement in which he denied the allegations of rape and said that they had consensual oral and vaginal sex. At no point did he have any reason to believe the complainant was not consenting as she had participated willingly. He then exercised his right to silence to the majority of the questions asked. Approved Judgment The prosecution case 6. 7. 8. 9. 10. 11. 12. 13. 14. The prosecution case at trial was that C had not consented to sex with the appellant, a stranger. She had done what he had asked from fear of the consequences if she said "no". The circumstances of the encounter were such that the appellant must have realised that C was not consenting. The prosecution relied on evidence at trial from C, whose evidence in chief was by way of an ABE ("Achieving Best Evidence") prerecorded interview. In that interview she gave details of her state that night, of meeting the appellant and how she came to have sex with him at the first and then the second bench on the river path. Her evidence was that she had submitted to the appellant's requests for sexual activity out of fear. We shall deal with C's account in more detail later in this judgment. The jury also heard evidence from the complainant's ex-boyfriend whose statement was read. He had spoken to the complainant on the telephone when she had gone for a walk. C had talked in hushed tones and said a guy was following her. He heard a deep

male voice say, "You alright love?" after which the call ended abruptly. C called him again and said she was still talking to the male. She described him as a "weirdo". She later told him that the male had coerced her into having sex. The male had told her that he had smashed up a kitchen, so she was scared. There was evidence from C's friend Joe, whom she had messaged as she and the appellant walked along the river path. She told him that she had met a guy. She later sent Joe a message asking him to call her, pretending to be her brother, saying she needed to go home. He said he spoke to C when she was in the Uber and she did not sound happy. She later told Joe that she had to give the male oral sex; she did not know if he had a knife or a gun. She repeatedly said she was too scared to say "no". C's brother gave evidence. He told the jury that C had called him at 4.30 in the morning. C told him that she had been followed by a male who talked of smashing up a kitchen and that he was going to get a gun. She told him that the male touched her and intimidated her into having sex with him. C's sister gave evidence that she had been woken by C after she had spoken to their brother. She described C as very distressed. C told her that she had seen a man on the river side, he had spoken of violent incidents and had pressured her into having sex. Police officers gave evidence of what the appellant said on arrest: "How can I be arrested for something we both agreed to?" The officer in the case dealt with agreed facts and CCTV footage. We have watched that footage closely, in particular the two clips drawn to our attention by Miss Dannhauser for the appellant. The officer in the case dealt with hearsay evidence from the Uber driver, whom C had called to take her home. The driver noted that the male mainly spoke and described the complainant as "quiet" during the journey, "may have looked a little scared". The defence case at trial was that the sex had been consensual. As far as the appellant was concerned C had participated willingly, he saw no reason to think that she was not consenting and had arranged to see her the next day. Approved Judgment 15. The issues for the jury, as will be obvious from what we have said, were consent and reasonable belief in consent. C's evidence at trial 16. 17. 18. 19. 20. As the appellant's single ground of appeal takes issue with the judge's refusal to stop the case at the close of the prosecution evidence, it is necessary to look in some detail at that evidence, in particular C's account given at trial of what happened. In her ABE interview, C said that she had had a bad day and had drunk a bottle of wine and taken a few tablets. She went for a walk to clear her head. She spoke to her ex-boyfriend on the phone and walked past a guy on a bench who had started to follow her. She did not want to turn and pass him, so she quickened her pace. About 15 minutes later she stopped and sat on a bench thinking that he had turned back but he suddenly appeared and sat next to her. He said that he had been following her, she had a nice arse and that her leggings had a hole in the back. He noted that she had been walking fast. She told him that she had been having a bad day and that she was drunk. He said he had arguments with his family too and that he had smashed up the family kitchen. He proceeded to tell her that at that time of night his "cock gets massive" and that he was feeling really horny. He said: "I know what you're here for. You wanna fuck." To which C responded, "No, that's not really what I'm here for." But he kept pushing it, she said. He talked about wanting to get a gun. She described him as muscular and said she got quite scared of him. Before the conversation had turned sexual, he had asked for a hug but after that he kissed

her. She said she froze and let him. He began touching her breasts and her bottom and unzipped his trousers. He asked her to give him head. She feared that he might have a gun or a knife in his backpack. She did not want to risk getting hurt so she gave him oral sex and he ejaculated in her mouth. The appellant said he knew a place they could go to and told her to walk with him. She said she felt very scared and wanted to go home. She kept saying to him that she did not know how far it was to her home and that she would like to go, but he insisted, saying there was plenty of time. She thought the appellant was quite unstable. He kept talking to himself. Because of that she thought she would just do as he said. As they walked he had his arm around her or on her bottom touching her buttocks through the hole in her leggings. She tried to trail behind him in order to text her friend. They got to a second bench and she sat down. He asked her to give him head again so she did. He was standing in front of her and she dropped to her knees and performed oral sex in that position. She grabbed his thighs a couple of times to steady herself. When he moved back and sat down she sat on the bench and continued to perform oral sex on him sitting down. He then asked her to take her clothes off and bend over the bench so that he could have sex with her from behind. She did what he asked so she was completely naked. She said she was not aroused so he had to use Vaseline. She did not know if he ejaculated. Afterwards they continued to walk. They reached Kew Green and went into a private property. She thought the appellant wanted to have sex again but there was someone working there who told them to leave. By that point it was about 3.00 am and she really wanted to go home. She messaged her friend Joe and asked him to call her number saying that he was her brother and that she needed to go home and that was what happened. She told the Approved Judgment appellant her brother had called and she needed to go. The appellant said she would walk back with him but she told him she was going to call an Uber. When the Uber pulled up the appellant hopped in with her and asked if she could drop him off at Richmond Train Station. She said she would rather go home by herself but did not want to agitate him any further. On the appellant's suggestion they arranged to meet again. In cross-examination, C said that she had taken more of her medication than she had been prescribed. She was not supposed to drink alcohol with it. Her decision-making was impaired. She felt disorientated and vulnerable and described herself as "out of it". She said she had been on the phone to her ex-boyfriend and thought there was a guy following her so she continued walking in the same direction. The appellant approached her and said his phone battery had died. She thought maybe he needed help with something. It was possible he had asked her if she was alright and she replied, "Yes, fine, I've had a bad day" but she could not recall. She instinctively hung up the phone to her ex-boyfriend. She denied that it was because she wanted to strike up a conversation with the appellant. She said it was not her best judgement to talk to the appellant, but she did not know how else to react. She had told the appellant that she had had a few arguments with her dad. She said she was trying to make conversation and get it over with. The appellant told her he had had issues with his family as well and had smashed up his kitchen. She agreed the appellant had complimented her appearance, said she had a nice "arse" and had commented about a hole in the back of her leggings. It was completely dark by the first bench and was quite densely overhung with trees. They played music on her

phone. Their conversation went on for about 15 minutes or so and then the appellant asked her to give him a hug, which she did. She said the conversation then turned quite sexual and the appellant made a comment along the lines of, "Oh, around this time of night my cock just gets massive". She responded with, "Oh, wow". She said she was lost for words and did not want to encourage the situation by giving an affirmative response. She accepted she did not say anything negative. The appellant then repeated how attractive he found her, that he was horny and wanted to 'fuck' her. She again responded with "Oh, wow", she was trying to be neutral. The way the appellant spoke made it sound like he was expecting a sexual encounter. The appellant was a lot bigger and stronger than her. She had no knowledge of whether he had a weapon and she did not feel she was in a safe enough position to make a phone call. She felt trapped. She let the appellant kiss her but explained that it had been a 'passive allowance'. She could not recall putting her head on his shoulder before the kiss and denied stroking his thigh. The appellant touched her breasts and bottom over her clothes, then slipped his hand under her leggings. She was not wearing any underwear. On the appellant's request she touched his penis. The appellant then unzipped his trousers, took out his penis and said something like, "Oh, give me head". She said nothing and gave him 21. 22. 23. 24. 25. 26. 27. Approved Judgment oral sex. It went on for maybe five to 10 minutes. The appellant ejaculated in her mouth. She went along with oral sex she said, under duress. The appellant had not threatened her explicitly, but his violent language, behaviour and tone led to her feeling threatened. 28. They both sat on the bench smoking cigarettes, then continued walking. She used small talk to get through the situation. The appellant had his right arm either around her or on her bottom. He sometimes put his fingers through the hole in the back of her leggings and touched her bottom. It was during that period of time that she thought the appellant talked to himself. She tried to hang back at times to text her friend Joe.

29. When they got to the second bench, she sat down and the appellant exposed his penis and asked for her opinion. She believed her reaction would have been neutral. The appellant stood in front of her and said, "Are you going to give me head again?" She got off the bench, dropped to her knees and performed oral sex again. She did not feel safe to say "no". She did not say anything at all. She acquiesced and did as she was told. She performed oral sex for several minutes and grabbed the appellant's thighs a couple of times to steady herself (partly due to the positioning and partly due to the alcohol). The appellant then stepped back and sat on the bench. He gave a hand gesture and she sat on the bench next to him and continued to perform oral sex. She did not know what the consequences would have been of a refusal to continue. There was no choice in the matter.
30. While performing oral sex, she removed her hoodie. The appellant sucked her breasts. There came a point where she removed her leggings, and the appellant asked her to bend over the bench so he could have sex with her from behind. The appellant did not ask her if she wanted to have sex. When he first attempted to put his penis in her it was around the anal area. She said, "No, no way", she believed it was unintentional. He did not have anal sex with her. He told her he was going to grab some Vaseline to which she replied, "Okay". She heard him rustling in his backpack. She did not use that opportunity to get dressed. She said

he could have had a knife in his backpack, she was not going to risk being hurt or killed. The appellant put Vaseline on his fingers and digitally penetrated her. She did not say anything. He then put his penis in her vagina. He placed his hands around her neck area, but not aggressively. She could not recall how long the sex had lasted. 31. 32. 33. She got dressed and they continued to walk. The appellant alternated between having his right arm around her or through the hole in the back of her leggings. She confirmed she had access to her phone most of the time she was with the appellant and frequently tried to message Joe. She had sent Joe messages saying, "Something weird is going on" but she did not elaborate. Once they got to Kew Green, they sat on a bench for a while, then wandered around and went to the private property. They then sat back on the bench and she, at that point, had time to message Joe to ask him to call her. After the call, she ordered an Uber. She wanted to exit as quickly as possible. She believed the appellant had wanted to go into the private property for more sex. The appellant went through a gated area and made her go through but someone working there told them to get out. Approved Judgment 34. 35. 36. 37. 38. 39. During the walk to Kew Green, she showed the appellant her provisional driving licence but had covered her address. She said she was trying to find something to talk about, it was her survival instinct to keep things as calm as possible and not give him any cause to react negatively towards her. The appellant said, "Well, do you think I'm going to come and see you and steal your shit?" She responded, "Well, I actually am scared of that" and he said she should not be. After she had ordered an Uber, the appellant asked her to give him head again. He backed into an alley and wanted her to go with him. Because an Uber was on its way, she felt more security, so she told him she was not going to do that. She denied kissing the appellant while waiting for the Uber and denied any intimacy there. She felt more confident by that point because the Uber was on the way and they were in an open space. If CCTV footage showed any intimacy, then she would have been trying to get out of the situation. The appellant asked if the Uber could drop him off at Richmond Station but he immediately got into the car so there was not a chance for her to say "no". The complainant said she felt more confident with the taxi driver there. The appellant asked for her number and asked the driver for a pen, although the pen did not work. The appellant suggested they met the following day. She replied, "Yes, okay, sure" but that was to get herself out of the situation. Throughout the time she spent with the appellant, she said she was very cautious not to aggravate the situation or to exacerbate it. She spoke to her brother, sister and Joe afterwards. Her sister said, "It's up to you but if you feel that you've been raped, you should call the police". She said she had no doubt that she had been raped. Consent was impossible in that situation. She agreed when she called the police she said, "I said yes, so I don't know if I should call you". However, she realised that she did not affirm anything and had not said "yes". 40. The complainant went to the Haven and it was noted that she had a slight vaginal injury. It was not noticeable until she went to the hospital.

41. When she went out that evening, she was having a difficult mental health day and was feeling miserable. She messaged her friend, "I'm really going to do something fucking stupid if I don't talk to someone soon" and explained that that was why she had called her ex-

boyfriend. She accepted that she had impaired decision-making that evening. By "doing something stupid", she meant as in cutting herself. She did not mean as in having a sexual encounter with a stranger. That situation was completely out of her control. 42. In re-examination she said there was no way she consented. She had acted under duress. Other than the first hug, she had never voluntarily touched the appellant. The defence submission of no case 43. At the end of the prosecution case the defendant made an application to the judge for a ruling of no case. The application was made under the second limb of Galbraith, namely that the prosecution evidence regarding consent and belief in consent was so Approved Judgment weak and tenuous that no jury properly directed could safely convict the appellant of rape.

44. Miss Dannhauser accepted that there was sufficient, although she suggested weak and contradictory, evidence that C had not consented. She focussed instead upon her client's reasonable belief in consent. She referred the judge to those aspects of C's evidence which she said must have indicated to the appellant C's willing participation or at the very least acquiescence by C in sexual activity. She pointed to the absence of evidence that C had said no or had indicated any resistance or reluctance in responding to the appellant's requests for oral or vaginal sex. For example, when the appellant engaged in sexual conversation about the size of his penis or how horny he was, C had responded "Oh, wow". She had allowed him to put his arm around her and to touch her bottom through the hole in her leggings. The CCTV showed her willing participation in walking with his arm around her and in an embrace whilst waiting for the Uber at Kew Green.
45. Miss Dannhauser referred further to the evidence indicating that when C had resisted the appellant's suggestions for sex, for instance when it seemed as if he might penetrate her anus, he had immediately desisted. On arrest the appellant's immediate response had been, "How can I be arrested for something we both agreed on?" Miss Dannhauser submitted that whilst he did not seek to argue that there was no proper evidence of a lack of consent, this was to be distinguished from a sufficiency of evidence from which the jury could conclude so they were sure that the appellant had not reasonably believed that C was consenting. When looked at from the point of view of what had been apparent to the appellant, Miss Dannhauser argued, there was nothing from which he could reasonably have concluded that C was not consenting to the instances of oral and vaginal sex which had taken place at the first and second benches along the river path. She emphasised the particular aspect of the evidence in this case, namely C's evidence that she had taken care to do nothing to indicate that anything was awry. 46. In a succinct ruling the judge dismissed the defence application. He referred to what he described as "an unusual sexual encounter" taking place in the early hours, in darkness, on a riverbank. He pointed to the evidence of C's state of mind and to the "over familiar" actions of the appellant towards her, observing that it "had the potential to be intimidating". The judge concluded: "It is a matter, it would appear to me, for the jury to assess that. But the combination of all of these factors is that this is not a case in which one could say there is no evidence. It is a question of whether the evidence that is there is so tenuous. In my final decision on this, it seems to me that there is some evidence upon which

a jury could convict if properly directed." Arguments on this appeal

47. Miss Dannhauser submits that the judge was wrong to dismiss the submission of no case to answer. The judge's reliance in his reasoning on evidence as to the time and location, the fact that C had told the appellant that she was drunk and that the appellant had behaved a 'little oddly', as Miss Dannhauser put it, was to ignore all the Approved Judgment 48. factors pointing to a reasonable belief in C's consent. C may not have consented to the sexual activity but the evidence on which the appellant did or should have realised that she was not consenting was so weak and tenuous that the judge should have removed the case from the jury. Her advice grounds on this appeal essentially repeat the arguments made to the judge in support of her application at trial. In the Respondent's Notice, expanded upon by Mr Price at the hearing today, the prosecution submit that the judge's ruling was correct. It did not involve an error of law or principle, nor was it an unreasonable conclusion for the judge to reach. Mr Price emphasises that the judge considered the evidence properly, his reasons for rejecting the submission were sound. The points raised on the evidence regarding reasonable belief in consent were jury points which the judge properly left for the jury to consider. Mr Price draws attention to the cases of *R v Malone* [1998] WL 1044362 and *R v H* [2007] EWCA Crim 2056 in support of his submission that the prosecution does not need to show that the complainant said "no" in order to obtain a conviction for rape. Mr Price argues that one of the circumstances for the jury to take into account was that the appellant had not taken any steps to ascertain whether C was consenting. Mr Price emphasised it was not his case that a defendant is in every case required to seek consent, rather that on the particular facts of this encounter it was a relevant consideration that the appellant had not positively sought to ascertain whether or not C was consenting. Discussion and conclusion 49. The legal requirements to be met and satisfied by the prosecution on a charge of rape are set out in section 1 of the Sexual Offences Act 2003: "1. Rape (1)A person (A) commits an offence if—
- (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis
  - (b) B does not consent to the penetration, and
  - (c) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
- (3) Sections 75 and 76 apply to an offence under this section. (4)A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life." 50. The key provisions for present purposes are subsections (1)(c) and (2). It is important, as Miss Dannhauser correctly submitted, not to elide the question of whether or not C in fact consented with the separate issue of what the appellant reasonably believed or might reasonably have believed. That is not to say that evidence going to consent or lack of consent will never be relevant to a jury's assessment of what a defendant Approved Judgment reasonably believed. The reference to "any steps ... taken" in subsection (2) is not to be read as imposing a legal duty explicitly to ask someone if they are consenting to sex, the

circumstances existing between two people at the material time may be such as readily to infer consent without any steps having been taken to ascertain it. Nevertheless, we agree with Mr Price that the circumstances of the particular encounter may be such as to render relevant the absence of any steps taken to ascertain the consent of the other party. It will depend on the particular facts of any given case. Subsection (2) should not be read as constraining in any way the jury's assessment of the evidence as a whole. 51. As to this, the current issue of the Crown Court Compendium, Part 1, Chapter 20-4 paragraph 14 states: "There is no obligation on D to have taken any specific steps to ascertain consent, but where steps have been taken, they must be taken into account by the jury in deciding whether D's belief was reasonable." This summary from the Compendium must not be read as ruling out as a relevant consideration the fact that a defendant has not taken any steps to ascertain consent. There may be circumstances where that is a relevant consideration. 52. Turning to this case, we note the following matters taken from the evidence which were known to the appellant:

1. C was a young woman, aged 18, still at school, drunk and upset, all of which she told the appellant during their initial conversation.
2. C was on her own, on a path by the river where the only way to go was forward or back, there were no turnings off.
3. It was late at night, dark, there were no lamps by the river and the appellant was a total stranger.
4. C had walked fast away from him for about 15 minutes. When the appellant caught up with her, he told her he had followed her because she had a 'nice arse' and her leggings had a hole in them which showed her bottom.
5. He said: "At this time of night my cock gets massive". He went on to say that he was very horny and just wanted to 'fuck'.
6. He was taller and stronger than her. He was carrying a backpack. He was talking to himself. He told her that he had smashed up his kitchen at home and at one point he mentioned a gun. She did not know what he had in his backpack.
7. Her evidence was that he grabbed her by the shoulder, kissing her cheek and neck before he turned her head and kissed her lips.
8. C said that he told her to take off her leggings. He had used an authoritative tone and that was why she had taken off her hoodie too.
9. C said she had consented to nothing, made no advances to the appellant, was not aroused by anything he said or did to her, he used Vaseline to lubricate her vagina Approved Judgment before penetrating her. 53. 54. 55.

10. When at the first bench the appellant announced to C that he wanted to 'fuck' her she responded that she was not there for that.
11. Before walking on to the second bench, C told the appellant that she wanted to go home, that she did not want to "go up" with him. The above points in the evidence appear to us more than sufficient from which a jury could conclude that the appellant did not reasonably believe that C was consenting to sex with him. We acknowledge the number and strength of matters in the evidence pointing away from such a conclusion, but they are not, in our view, of such weight or cogency as wholly to negate the evidence to which we have referred. All of the matters relied upon by Miss Dannhauser as suggestive of the appellant's reasonable belief in consent are good and strong points, but they are jury points. They did not, when set against the circumstances we have enumerated, render the prosecution case so weak as to call for its dismissal under the second limb of Galbraith. This case is different from H: in H the issue was one of actual consent, whereas here the issue was one of reasonable belief in consent. In our view, however, the observations of Hallett LJ in H at [33] and [34] as to the pre-eminence of issues of consent being ones for the jury apply equally to issues of reasonable belief in consent where on one view of the evidence the complainant did not consent. We do not go so far as to say that where there is evidence of a lack of consent there will always be sufficient evidence of a lack of reasonable belief in consent, each case must depend on its own facts. But to borrow and to adapt slightly the observations of Hallett LJ in H at [34] it will be a very rare case where it will be appropriate for a judge to stop a case in which a young woman, alone at night in a dark and isolated place is followed and stopped by an older stranger who has sex within a short time of meeting her, when she says repeatedly that she did not consent to have sex with him and would never have done so in those circumstances. We are entirely satisfied that there was sufficient evidence here to go before the jury on the issue of reasonable belief in consent. The conviction is safe. The appeal is dismissed. Approved Judgment Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof. Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE Tel No: 020 7404 1400 Email: rcj@epiqglobal.co.uk

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