

ENGLAND AND WALES / JUDGMENT

R v Hamid Ali

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- v - HAMID ALI

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Mr G P Doran and Miss C Halliwell appeared on behalf of the Applicant Mr T Badenoch KC and Mr Steven J Ball appeared on behalf of the Crown

J U D G M E N T

Tuesday 21 April 2026 LORD JUSTICE DOVE:

1. On 4 November 2024, following a trial in the Crown Court at Liverpool before Her Honour Judge Crangle and a jury, the appellant was convicted of a single count of conspiracy to import a controlled drug of Class B, contrary to section 1(1) of the Criminal Law Act 1977 and section 170(2)(b) of the Customs and Excise Management Act 1979.
2. On 21 March 2025, the appellant was sentenced by the trial judge to five years and six months' imprisonment.
3. He now appeals against conviction with the leave of the single judge.
4. The facts of this offence, which are not central to this appeal, were that the conspirators charged were all involved in the importation of what purported to be citronella candles from Spain, but which were in fact vessels for the importation of cannabis resin, concealed in the ceramic pots housing the candles. The appellant's role in the conspiracy was that he was involved in the provision of finance to enable the venture to be successfully undertaken.
5. This appeal concerns the jurisdiction of the Crown Court to have tried the appellant for the offence. The argument relates to the terms of the postal requisition, the MG4, which was sent to the appellant, and the subsequent order from the magistrates' court sending his case to the Crown Court. The postal requisition, the MG4, was dated 10 November 2023. At page 2 it provided as follows: "Before 17/04/2024 at an unknown location conspired together with other persons to fraudulently evade any duty chargeable on goods, namely 237 kilograms of cannabis resin. -- LEGISLATION: 'Contrary to section 1(1) of the Criminal Law Act 1977'."
6. Thereafter, at page 4, the MG4 provided as follows: "This notice is a 'written charge and requisition'. It has been issued under sections 29 and 30 of the Criminal Justice Act 2003 and rules 7.3 and 7.4 of the Criminal Procedure Rules."
7. The appellant appeared at the magistrates' court on 20 June 2024 and his case, which was a charge of conspiracy and one which was therefore indictable only, was sent to the Crown Court. The court extract in relation to those magistrates' court proceedings records as follows: "Offence: Conspire to fraudulently evade any duty / prohibition / restriction / provision Offence Date: 17 April 2024 Before 17/04/2024 at an unknown location conspired together with other persons to fraudulently evade any duty chargeable on goods, namely 237 kilograms of cannabis resin. Results CCIU – Sent to Crown Court for trial on unconditional bail. Sent for trial under section 51(1) & (2)(a) of the Crime and Disorder Act 1998."
8. At the Crown Court the appellant was charged with an offence which was particularised in the indictment which was preferred in the following terms: "HAMID ALI between the 1st day of June 2022 and the 19th day of April 2023 in Liverpool conspired with others in arranging to be carried certain goods, namely a quantity of Class B drug, namely cannabis with respect to the importation of which a prohibition or restriction was for the time being

in force with intent to evade any such prohibition or restriction with respect to the drugs." 9. In this court, as in the court below, the appellant contends that the sending of the case to the Crown Court was unlawful. The appellant draws attention to section 29 of the Criminal Justice Act 2003 which provides that criminal proceedings may be instituted by "issuing a document (a 'written charge') which charges the person with an offence". Section 29 is further assisted by rule 7.3 of the Criminal Procedure Rules which provides as follows: "(1) An allegation of an offence in an application for the issue of a summons or warrant or in a charge must contain —

- (a) a statement of the offence that —
 - (i) describes the offence in ordinary language, and (ii) identifies any legislation that creates it; and
 - (b) such particulars of the conduct constituting the commission of the offence as to make clear what the prosecutor alleges against the defendant ..."
10. The appellant submits that the charge in the MG4 "fraudulent evasion of a duty chargeable on cannabis resin" is not an offence known to law, and therefore that the MG4 is fundamentally defective. The only legislative provision, it is submitted, that was referred to in the MG4 was section 1(1) of the 1977 Act, and that there was no mention of section 170(2)
- (b) of the 1979 Act, which was the offence in relation to which the conspiracy had been instituted.
11. The appellant submits that this error persisted into the magistrates' court proceedings where, again, the court extract for the purposes of sending the case to the Crown Court referred to fraudulent evasion of duty chargeable on goods, namely cannabis resin. In summary, the appellant contends that it cannot have been the intention of Parliament to permit a person to be charged and then committed (or sent) to the Crown Court on the basis of an offence which is unknown to law and for that error not to be corrected until the indictment is preferred before the Crown Court.
12. The principles to be applied when assessing whether procedure of this kind has been lawfully undertaken and whether a person has been lawfully committed (or sent) to the Crown Court was considered at some length in *R v Butt* [2024] 1 WLR 5361. However, that case concerned the more complex position in relation to the sending or committal of a person who has been charged with an either way offence. As has already been observed, this offence being a conspiracy was chargeable on indictment only. At [64] of *Butt*, the court set out the first question to be asked, namely: what power was being exercised by the magistrates' court in sending the case?

13. Here the court extract notes that the case was being sent under section 51(1) and (2)(a) of the 1998 Act. Those provisions are as follows: "51(1) Where an adult appears or is brought before a magistrates' court ('the court') charged with an offence and any of the conditions mentioned in subsection (2) below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.
- (2) Those conditions are — (a) that the offence is an offence triable only on indictment other than one in respect of which notice has been given under section 51B or 51C below; ..." Sections 51B and 51C are of no application to this case.
14. Accordingly, the questions which arise as a result of the appellant's submissions are: firstly, whether the MG4, which charged the appellant, was lawfully drafted and met the relevant legal requirements in order to be a valid step in the proceedings. Subsequent to that, the question of whether or not the powers under section 51(1) and (2)(a) were properly utilised then falls for consideration.
15. The legal requirements for the MG4 postal requisition were noted in the document itself. There was a requirement, pursuant to section 29 of the Criminal Justice Act 2003, for a written charge, as set out above. Again, as set out above, Criminal Procedure Rule 7.3 required a statement describing the offence "in ordinary language" and identifying the legislation creating it, along with providing particulars of the offence, making it clear what the prosecutor alleges against the defendant.
16. In our judgment, this rule sets a purposely simple and relatively low threshold to enable criminal proceedings to be commenced. Once they have been commenced, there are numerous further procedural safeguards to ensure fairness and greater sophistication in the formulation of any case to enable a defendant's response to it. It is notable that section 29(2)
 - (a) sets out that the purpose of the postal requisition is simply to require the recipient of it to appear before the magistrates' court in order to answer the charge comprised in the document.
17. Applying these tests – and in particular the test in CPR 7.3 – it is clear to us that in ordinary language the appellant was told by the document that he was being charged with being involved in a conspiracy with others to import 237 kilograms of cannabis illegally, and that in that sense the facts of what the prosecution alleged against him were sufficiently clear to make a valid charge in accordance with the rules.
18. The legislation was also, in our judgment, clearly specified. The conspiracy was charged under section 1(1) of the Criminal Law Act 1977. Again, that was sufficient for the charge to initiate proceedings. It was not a necessary requirement of CPR 7.3 for the document to go on to specify what species of conspiracy this was in more detailed legal terms, or to identify the precise legal basis of the offence which was the aim of the conspiracy, beyond the description of the criminal conduct in ordinary terms which had already been set out in the document.

19. Moreover, and with greater particularity, whilst the appellant contends that there is no offence known to law of fraudulently evading duty chargeable on cannabis, we are not, like the judge below, so convinced. Section 170(2) of the Customs and Excise Management Act 1979 provides as follows: "(2) Without prejudice to any other provision of the Customs and Excise Act 1979, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion—
- (a) of any duty chargeable on the goods;
 - (b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or
 - (c) of any provision of the Customs and Excise Act 1979 applicable to the goods, he shall be guilty of an offence under this section and may be detained."
20. Section 170(2) therefore describes several ways in which goods may be imported illegally. In so far as the description in the MG4 may closely fit section 170(2)(a), there are, as the judge in her ruling and the prosecution both observed, occasions when duty is chargeable on cannabis: for instance, when it is licensed for use for pharmaceutical purposes. So it is not an offence unknown to law for there to be potential for section 170(2)(a) to be engaged in relation to dealing with cannabis.
21. This is a subsidiary argument but reinforces our view that the MG4 in this case was perfectly valid. The primary point is that the MG4 provided sufficient particularity, as required by CPR 7.3, for the appellant to understand that he was being charged with a conspiracy illegally to import a large quantity of cannabis, thereby satisfying the requirements of both section 29 of the 2003 Act and also CPR 7.3.
22. There was no illegality in the MG4 which might have affected the sending process. It is, therefore, unnecessary, strictly speaking, to go further and to consider the sending process. But, in our view, it was a process which was perfectly valid. The bold text in the court extract "Offence: Conspire to fraudulently evade any duty / prohibition / restriction / provision" made clear that the appellant was charged with a conspiracy, including a conspiracy to evade a prohibition or restriction. The terms of section 51(1) and 51(2)(a) are clear. Conspiracy must be sent because it is triable only on indictment.
23. The other text in the court extract, which repeated the MG4, which as noted above may be closer to an allegation of a specific breach of section 170(2)(a) does not affect that conclusion. We would observe as follows:
- 1. As the judge observed, the text in bold in the court extract is clear and governs the decision which has been reached.
 - 2. As already noted, there are a number of offences created by section 170(2), and there is no difficulty with the case being sent under one of them and ultimately with the defendant being charged under another.

3. Neither of these points goes behind the clear validity of a conspiracy charge being sent, as required by section 51(1) and section 51(2)(a).
24. Earlier today a further authority was provided by the respondent, R(on the application of John Preston Bentham) v Governor of HMP Wandsworth [2006] EWHC 121 (Admin), in which the approach taken by the Divisional Court also reflects our observations in respect of the sending process in this case. At [36] of the judgment of Gross J (as he then was), with whom Hooper LJ agreed, it was noted that the decision in substance is that which is made under section 51(1) of the 1998 Act, and that the notice accompanying that Act is an administrative act only. Any defect of the notice would not invalidate or render ineffective the validity of the sending.
25. Here, therefore, the nature of the charge meant that there was no discretion. The case had to be sent to the Crown Court and it is that sending action which is the means whereby the Crown Court obtains its jurisdiction.
26. For all of these reasons, we are entirely satisfied that the Crown Court was properly seized with jurisdiction in order to conduct the trial of the appellant in this case. The judge was correct to rule, as she did, that the court had jurisdiction.
27. Accordingly, this appeal, notwithstanding the care with which it has been advanced, must be dismissed.

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