

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: **19/12/2013**

IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

v

**SANYA GHOSH, SHALAH RAZIB
and JOSEPH ABRAHAM**

HORNER J

General Remarks

[1] All the defendants whom I am about to sentence are to be commended for the way in which they have cooperated with the prosecution. Messrs Abraham and Razib gave evidence for the prosecution at Patrick Buckley's first trial. Mr Ghosh volunteered to provide additional evidence at his second trial. These cases are difficult to prosecute because it is not easy to adduce the evidence necessary to secure a conviction. Their public spirited attitude can be said to be quite exceptional. For the record I note the comments of Morgan LCJ in R v Neil Hyde 2003 NICA 8 and in particular paragraphs 10-14. I also draw attention to the comments of Allen and McAleenan on Sentencing Law and Practice in Northern Ireland at 6.192 where they say that:

"A substantial reduction in sentence will be made where the offender assists the police by providing them with information leading to the apprehension of other offenders."

It is also appropriate that I should publicly commend the police for the professional way they have gone about obtaining the evidence necessary to place those involved in organising sham marriages and participating in them before the courts. They have much of which to be proud.

A. SANYA GHOSH

[2] You have pleaded guilty to a breach of Section 24A(1) of the Immigration Act 1971. This is an offence which is much less serious than Section 25(1) of the Immigration Act. Both the Crown and the defence agree that the appropriate range is 9 to 18 months' imprisonment. I have read all the various authorities provided by the Prosecution and the Defence. You are aged 27 years and come from a stable background. It is clear that you were not an organiser or even a cog in the sham marriage in which you participated. You were but a pawn. I consider that the starting point is a term of 15 months' imprisonment.

[3] The mitigating factors are:

- (i) This was a single one-off transaction.
- (ii) You did not act for commercial gain and you did not coerce anyone. You did what you did in order to improve your lot in life having been previously exploited because of your illegal status.
- (iii) You have not been a burden on the State. You have been in full-time employment and your employer rates you highly as a taxi driver.
- (iv) You are genuinely remorseful. You have pleaded guilty at the earliest opportunity and you have co-operated fully with the police. You have assisted the prosecution and offered to give sworn testimony at the trial of Patrick Buckley. I have no doubt that this was a genuine offer.
- (v) You have been heavily involved in charitable work and you assist both the Princes Trust and the Citizens Advice Bureau. You are active in your local temple. You have been described by one of your referees as "an asset to the community" which does not seem to me on the evidence that I have to be an unreasonable conclusion.
- (vi) The pre-sentence report makes it clear that you are unlikely to reoffend.
- (vii) In addition you have pleaded guilty and I give you full credit for that.

[4] The pre-sentence report portrays a man who has accepted that he has done wrong, who has made a real contribution to his community and who is genuinely remorseful. I consider that the appropriate period of imprisonment is 6 months. However I consider that your personal circumstances taken together with the co-operation you have provided to the prosecution including your willingness to give sworn testimony are such as to constitute highly exceptional circumstances allowing me to suspend your sentence of imprisonment. For the record I note that the

prosecution also accept that this is a case in which your assistance was such that I could suspend your sentence, although of course the final decision is mine. (The foregoing comments apply mutatis mutandi to the 2 other defendants.) Having given the matter careful consideration I do consider that there are exceptional circumstances and that your contribution has been such that I should suspend your term of imprisonment for 2 years. This means the sentence will not take effect unless during the period of suspension you commit in Northern Ireland, another offence punishable with imprisonment. If so, then you will be liable to have the suspended sentence brought into effect.

B. SHALAH RAZIB

[5] You have pleaded guilty to breach of Section 24A(1)(a) of the Immigration Act 1971. I have already pointed out that this is a much less serious offence than breach of Section 25(1) of the Immigration Act. You are 31 years old. You are in a stable relationship.

[6] As in the case of Sanya Ghosh I have considered all the relevant authorities and I am satisfied that the starting point for your prison sentence is 15 months.

[7] The mitigating factors are:

- (i) This was a single transaction.
- (ii) It was not for commercial gain. In fact you were being exploited.
- (iii) You had been in employment until your partner's ill health required you to leave work to look after your family. I note that you hope to return to work as soon as your partner's health is restored.
- (iv) You have no previous convictions. You are of good character and unlikely to reoffend according to the pre-sentence report.
- (v) You are genuinely remorseful. You have pleaded guilty and you have cooperated fully with the police. You have assisted the prosecution and gave sworn testimony at the first trial of Patrick Buckley.

[8] In the circumstances I consider that the proper sentence of imprisonment is 6 months giving full credit for your plea of guilty.

[9] The combination of your good character, your personal circumstances, your plea of guilty and most importantly the cooperation you have given to the police and prosecution are such that I find that these are highly exceptional circumstances and that your sentence of imprisonment should be suspended for 2 years. This means that the sentence will not take effect unless during the period of suspension you

commit in Northern Ireland another offence punishable with imprisonment. If so, then you will be liable to have the suspended sentence brought into effect.

C. JOSEPH ABRAHAM

[10] You also have pleaded guilty to a breach of Section 24A(1)(a) of the Immigration Act 1971. The comments I made about the offences of Sanya Ghosh and Shalah Razib apply to you.

[11] You are 29 years old and in a stable relationship.

[12] I consider that the starting point is 15 months in light of all the authorities. I consider that the mitigating factors are:

- (i) This was a single transaction.
- (ii) The offence was not committed for commercial gain; you were exploited.
- (iii) I accept that you have been unable to apply for work because of your immigrant status and that you are keen to start work as a chef.
- (iv) I note that you are genuinely remorseful. You have pleaded guilty. You have cooperated fully with the police and you have given evidence for the prosecution at the previous trial of Patrick Buckley.

[13] As in the cases of Ghosh and Razib I consider that the starting point given your role is 15 months. I consider that the appropriate term of imprisonment is 6 months.

[14] I also am satisfied that your good character, your personal circumstances, your plea of guilty, your cooperation with the police and most importantly your sworn testimony at the trial of Patrick Buckley are such as to constitute highly exceptional circumstances permitting me to suspend your sentence for 2 years. This means that the sentence will not take effect unless you during the period of suspension commit in Northern Ireland another offence punishable with imprisonment. If so, then you will be liable to have the suspended sentence brought into effect.