

**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.**

**This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.**

IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2022] EWCA CRIM 1818



No. 202101318 B3

Royal Courts of Justice

Friday, 2 December 2022

Before:

LADY JUSTICE SIMLER  
MR JUSTICE SWEETING  
HIS HONOUR JUDGE KATZ KC

REX  
V  
PUVINDER SINGH BRIAH

Computer-aided Transcript prepared from the Stenographic Notes of  
Opus 2 International Ltd.

Official Court Reporters and Audio Transcribers

5 New Street Square, London, EC4A 3BF

Tel: 020 7831 5627 Fax: 020 7831 7737

CACD.ACO@opus2.digital

MS C BRACKEN appeared on behalf of the Appellant.

MR J K BENSON KC appeared on behalf of the Respondent.

J U D G M E N T

LADY JUSTICE SIMLER:

Introduction

- 1 On 22 March 2016, following a trial in the Crown Court at Blackfriars before HHJ Richardson and a jury, the appellant, Puvinder Singh Briaah, was convicted of conspiracy to launder money and on 23 March 2016 he was convicted of conspiracy to pervert the course of public justice.
- 2 There were four co-accused. Tajinder Padda was convicted in the same trial of conspiracy to launder money. The three others who were alleged to be part of the operation were Surinder Pal, subsequently sentenced to four years' imprisonment for money laundering; Akshai Pidakala, who was also convicted of money laundering and sentenced to seven years' imprisonment; and Parmjit Lail, who was acquitted.
- 3 On 23 March 2016 the appellant was sentenced to 12 years' imprisonment for the offence of money laundering and to two consecutive terms of 12 months' and four months' imprisonment respectively, for conspiracy to pervert the course of public justice and failing to surrender, which he had earlier admitted. The total sentence was 13 years and four months' imprisonment and he was also disqualified under section 2 Company Directors Disqualification Act 1986 for a period of 12 years.
- 4 Padda was sentenced in the same terms for his role in the money laundering conspiracy.
- 5 Both the appellant and Padda lodged applications for leave to appeal against conviction and sentence. Those applications were refused by the single judge. Although they were initially renewed to the full court, the applications were abandoned before any hearing took place.
- 6 Contested confiscation proceedings took place against Padda and the appellant. On 6 April 2021 at the Central Criminal Court before HHJ Hillen, Padda was ordered to pay

a confiscation order in the amount of £555,900.59 under section 6 Proceeds of Crime Act 2002. His application for leave to appeal that order was refused by the single judge on the papers and by this court following a renewed oral hearing earlier this year.

7 The appellant was ordered by HHJ Hillen to pay a confiscation order of £696,067.04 under section 6 Proceeds of Crime Act 2002, within four months or, in default, serve six years' imprisonment consecutively to the term imposed for the substantive offence. He too appealed. This court was persuaded to give leave to appeal against the confiscation order on two specific grounds. The first relates to four cheques payable to HMRC which he says should have been taken into account in calculating the available amount. The second is an asserted double counting error said to have been made by the judge.

8 Ms Bracken appeared for the appellant and Mr Benson KC for the prosecution. We are grateful to both counsel for the assistance with which we have been provided, and in particular, their careful, focussed submissions.

### The facts

9 The facts underlying the case are lengthy. For present purposes, it is sufficient to summarise them as follows. The appellant and Padda were involved in an organised crime group which engaged in large-scale excise fraud. The fraud generated large cash sums which were subsequently laundered. These two men were the prime-movers in the conspiracy and were the joint heads of the Gravesend-based organised crime group. Their activities involved the control and distribution of excise duty on suspended quantities of alcohol and cigarettes, which were then sold for profit without excise duty being paid. The profits were then laundered through a network of front companies which existed for that purpose alone. Cash proceeds from the sale of the smuggled alcohol and cigarettes were transported within the UK through a cash courier network and cash and carry stores which purchased the alcohol and cigarettes from the organised crime group.

- 10 A sense of the scale of the enterprise can be ascertained from the description of some extracts of the evidence. First, there were cash seizures made by the British Transport Police, on 11 January 2012 at Euston Station in an amount of £134,000 (odd); and on 2 June 2012 when £30,000 (odd) was seized at St Pancras. It was established that French couriers were paid to travel regularly from France to the UK in an attempt to legitimise the movements of large quantities of cash.
- 11 Secondly, handwritten notes were seized from the house of one of the associates which also serve to demonstrate the size of the profits. On the second page of the handwritten notes an entry dated 18 November 2010 read “left was £100,000”, followed by two columns showing “P(50)” and “T(50)”. The prosecution asserted that this showed that any amounts of cash left over were distributed equally between the appellant and Padda.
- 12 Thirdly, a memory stick was seized from Akshai Pidakala's person or premises. This was found to have contained a deleted spreadsheet that came to be known as exhibit HOM/105. Forensic investigators were able to recover the spreadsheet. It was an off-record ledger reflecting the value of the fraud between 25 January and 15 December 2010. It recorded cash sums coming into the organised crime group and the amounts distributed out to various individuals, including the appellant and Padda. The total sum recorded as coming in amounted to nearly £31 million.
- 13 The prosecution alleged that Padda used aliases, including Terry, Titch and T and that the appellant used the alias of Peter or P.
- 14 The trial judge concluded that the fraud continued beyond the scope of what was contained in the spreadsheet and the amount of cash collected was not less than £60 million, reflecting the fact that the offence in count 1 was particularised in the indictment as having been committed between 9 February 2010 and 18 July 2013. The £60 million figure was reached by extrapolating the £30 million per year turnover figure on HOM/105 to reach a figure for

the entire period of the conspiracy of £100 million. The judge accepted, however, that the conspiracy declined in its later months and therefore arrived at the figure of £60 million by way of a total turnover figure.

15 The spreadsheet showed that Padda was the direct recipient of £109,000 (odd) and that Briah was the direct recipient of £180,650, although those figures were believed by the prosecution to represent only a small percentage of the payments received by these two men.

16 The confiscation proceedings were themselves lengthy. They were also complicated, as the judge observed, by various interim applications and by the pandemic. Although throughout 2016 and 2017 there were exchanges of witness statements and submissions, a full opening only took place in relation to the confiscation proceedings in July 2020, with cross-examination of those witnesses who were called to give evidence in December 2020 and written closing submissions served in 2021.

17 The prosecution contended for a benefit figure in respect of the criminal conduct of £60 million, placing reliance on the trial judge's findings. For Padda the prosecution contended for an available amount of just over £882,000. For the appellant, they contended for a figure of just over £844,000. For their part, both Padda and the appellant essentially argued that the available amount should be limited to the profit in the form of the duty evaded. Many detailed points were taken as to the valuations, profit margins, costs of the operation and overheads to be deducted, and so forth. It is unnecessary for us to summarise these arguments.

18 The appellant accepted that entries marked Peter or P on the spreadsheets may have indicated payments to him. He contended, however, that there was double counting of certain sums and that one recorded sum of £200,000 was owed to him but not in fact paid.

19 The prosecution also relied on withdrawals by cheque from the appellant's account. In his section 17 statement dated 30 January 2018, the appellant provided a schedule showing the destination of some cheque payments together with exhibited copies of certain cheque stubs. The prosecution responded to the statement contending that the exhibit was largely unreadable and did not constitute compelling evidence. In response, the appellant provided better copies of the cheque stubs. We shall return to this aspect of the evidence below.

20 Neither the appellant nor Padda gave evidence at the confiscation hearing.

### The impugned ruling

21 HHJ Hillen produced a careful, well-reasoned and comprehensive ruling on the confiscation issues. Given the scope of the appeal, which is directed at the findings made by the judge as to the available amount, it is unnecessary for us to summarise in any detail those aspects of the judge's ruling that dealt with the benefit figure.

22 In short, HHJ Hillen made clear that the benefit was to be assessed on the basis of gross amounts obtained and not net profit. The judge at trial found these two individuals to be the leaders in the conspiracy. Neither had given evidence and the evidence of the co-accused contradicted their assertions that they were not the prime-movers. There was nothing in the confiscation proceedings to displace the judgment of the trial judge. HHJ Hillen referred to the reliance placed by the judge on HOM/105, which covered most of 2010 and which was described as a “cash account for the collection and distribution of this money”. HHJ Hillen observed that the prosecution was unable to prove the amount of cash proceeds during the remaining part of the conspiracy as indicted. However, there was undoubted proof the conspiracy continued until at least the end date pleaded in the indictment and he depended on the findings of the trial judge who heard the evidence and properly directed himself as to findings of fact for the purpose of sentence. The trial judge regarded £60 million, less cash seized and forfeited, as a conservative estimate.

A benefit figure in that sum was just and proportionate. Nothing from either man had served to dislodge the trial judge's assessment. Ultimately, the judge identified the benefit figure in the case of each of the appellant and Padda as £59,827,230.

23 The available amount fell into three categories: identified assets; tainted gifts amounting to approximately £91,000 (made up of money, watches, etc); and hidden assets. The judge described ascertaining the value of the hidden assets as a "vexed question". He observed correctly that if he was satisfied by the Crown that there was evidence of hidden assets, it was for each of Padda and the appellant to prove that he had not obtained the benefit of those assets. The judge recognised the clear evidence of a willingness to move money and hide it away. He considered that the appellant showed a willingness to dispose of his property. He concluded that there was a reasonable inference that both men had hidden assets, and therefore proceeded to make a fair and proportionate assessment of those assets.

24 In relation to the appellant (referred to as Briah in the ruling), he dealt with hidden assets at paragraphs 48 to 54 of his ruling as follows:

"48. The Crown have conducted an analysis of Briah's known bank accounts (set out in paragraphs 7.4 to 7.20 of Volume 1 Flap 2 Confiscation bundle) and produce a schedule of such payments (conservatively put at withdrawals over £500 (Appendix 19 to volume 1 Flap 2 Confiscation bundle). These payments are made between 11th August 2010 and 13th April 2016. None of the destinations of these amounts have been identified by Briah to my satisfaction on a balance of probabilities. I am therefore of the opinion that these constitute hidden assets amounting, once CPIH has been added to £212,150.74

49. From HOM 105 (see above) the Crown have extracted from the payments made to 'Peter' or 'P' between 1st February 2010 and 18th November 2010. (Appendix 2a to Volume 1 Flap 2 Confiscation bundle). The defendant Does not dispute that Peter or P 'may' indicate payments to him. It was clear to the trial judge in sentencing that this was a figure lower than reality. None of the destinations of these monies have been identified by the defendant sufficiently. He asserts for instance that payments were expenses and cites as an example that the payment of £17,000 on 1st February 2010 related to Belgian duty. He adduces no evidence for any of these assertions. It is incumbent upon him to do so. Consequently I am of the opinion that these constitute hidden assets amounting to £118,650.00.

50. Recovered from the memory stick found in a co-conspirators house there appear to be payments made again to 'P'. showing a total of £106,185 (in amounts

more than £500) received over a 22-month period from 22nd January 2009 and 11th December 2010. (Appendix 20 to Volume 1 Flap 2 Confiscation bundle). The defendant contends that these represent 'living Expenses'. Of course, even criminals have to eat and the figure denoted as 'wages' on that spreadsheet ought in my judgement to be deducted from the total. It also seems to me that where there is designation of particular payments, e.g. to 'Party', that would indicate that those funds have been dissipated. However, where there are funds which cannot be accounted for either by particular designation, or for living expenses, those sums are, in my judgment hidden assets. Consequently, if the arithmetic is correct I deduct £52,955 from the figure suggested by the Crown as hidden assets on this schedule. Thus, the figure of £53,230 are hidden assets. (Note the £51000 on 28th March 2009 is not counted by The Crown- though the defendant answers it Saying it was lodge with Lail for safekeeping (see response of 20.1.18)

51. In Appendix 21 to Volume 1 Flap 2 Confiscation bundle is a document recovered from the same source as the previous document. It shows a payment made to the defendant and to Padda of £34,592. Since the learned trial judge found Padda and Briah to be the prime movers, it is reasonable to conclude that this figure would be equally divided between them. However, I accept the defendant's interpretation of the document as set out in Volume 1 Flap 5 Confiscation bundle on page 8. He accepts profit of £7784.17. He suggests that this would appear on one of the spreadsheets, but does not identify where or which. In the absence of evidence showing where that money went. I am satisfied that it is a hidden asset.

52. In Appendix 22 to Volume 1 Flap 2 confiscation bundle is yet another document recovered from the same source as the previous documents. The Crown rely solely upon the figure of £200,000 as a hidden asset. The defendant asserts that the document shows that £200,000 is owed to him but was not paid. I do not accept that. It Is clear on the face of the document that there are sums of money owed, but the £200,000 is distinguished from those by the terminology used. The defendant needs to explain where this has gone, He does not do so. I am satisfied that this is a hidden asset. The defendant also contends that there is double counting of some sums. However, it is clear from the document that those figures are separate for the £200,000.

53. In Appendix 23 to Volume 1 Flap 2 Confiscation bundle is a document recovered from the same source as the previous documents. They show receipts on 18th December 2009 and 1st February 2010 Totalling £31,000. I accept that the £17.000 on 1st February is duplicated in Appendix 2 A above. Consequently, only £14000 is included in the hidden assets figure. There Is no evidence that this was dissipated by way of payment of duty as the defendant alleges.

54. Consequently, the hidden assets in respect of Purvinder Briah is £605,814.91.”

### The appeal

25 The appeal, as we have already indicated, is limited to two grounds.

26 The first ground contends that the judge failed to engage with certain evidence relating to the payments out by the appellant to HMRC, as reflected in the documents available and



recovered from the memory stick. In particular, the appellant produced a copy of four cheque stubs said to show payments to HMRC as follows: (i) a payment dated 2 July 2011 in the sum of £19,212.69; (ii) a payment dated 20 August 2012 in the sum of £21,691.05; (iii) a payment 4 February 2014 in the sum of £528.95, and (iv) a payment dated 1 July 2016 in the sum of £882.60. The total comes to £42,675.34. The appellant contends this sum should have been deducted but was not.

27 When the cheque stub evidence was produced, the cheque stubs were illegible, and the prosecution was not prepared to engage with that evidence in consequence. Subsequently however, Ms Bracken provided clearer copies of those documents and, as far as she was concerned, there was no further challenge to them. She submitted that the judge was in error therefore in failing to accept that those sums were properly to be deducted from the hidden assets in question. We do not criticise the judge for not placing reliance on the cheque stub evidence in the circumstances that applied at the time. The appellant did not give evidence to explain that the cheque stubs reflected sums paid to HMRC and there was no evidence at that stage to that effect. Steps could have been taken, but were not taken, to secure HMRC's agreement that those sums were received.

28 However, Ms Bracken makes the point that this was an HMRC led investigation so that HMRC were well placed to confirm the veracity of the four payments. Indeed, in August 2021, having explored these matters in correspondence with HMRC, HMRC conceded that £42,000 (odd) was received by HMRC in the form of four cheque payments as described. In light of that evidence, admitted as fresh evidence under section 23 of the 1968 Act, the Crown now accepts that £42,000 (odd) should have been deducted from the sum of £212,150.74 referred to by the judge at paragraph 48, producing a total sum of £169,475.40 in its place. We have been taken to the various documents and are satisfied that the concession is rightly made. We accordingly allow the first ground of appeal.

29 The second ground of appeal is based on an asserted arithmetical error. Ms Bracken submits that a “concession” was made by the financial investigator in the supplemental section 16 statement dated 21 September 2018, at paragraph 11.12, in the following terms:

“The crown concede that there could feasibly be an element of double accounting in the figures at Appendix 2A to the s.16 prosecutor statement dated 18 August 2016. Having compared the figures in Appendix 2A and the figures at Appendices 20 and 22 to the same prosecutor statement, the crown have removed the total of £118,650 from Appendix 2A to avoid any possibility of double counting”.

30 Ms Bracken submitted that despite this concession, made explicitly, the amount identified was not removed from the final hidden asset figure arrived at by the judge. Indeed, she referred us to paragraph 49 of the judgment where the judge accepted that the appendix 2A figure was a lower figure than reality, but that none of the destinations of the monies had been sufficiently identified by the appellant, and accordingly concluded that the total amount of £180,650 did constitute hidden assets. Relying on the financial investigator's methodology, she submitted that this sum was included in the methodology he described and the ultimate figure arrived at by the judge was wrong in consequence. Although the judge expressed his concern about excluding mathematical double counting, in fact the error must have come about because he took the figure from the old section 16 statement, and then made specific deductions, but without any reference to paragraph 11.12 of the financial investigator's statement.

31 She also submitted that four specific entries on appendix 2A could be shown to reflect double counting, because those figures also appear on appendix 22. The entries are: (i) £2,000 on 26 July 2010 with a reference P, reflecting a payment out to P; (ii) £1,000 on the 17 July 2010, a payment out to Peter; (iii) £5,000 on 11 August 2010, a payment out to Peter and (iv) £4,000 on 18 August 2010, a payment out to P. This demonstrates that there was in fact double counting but is simply illustrative. Despite his care, the judge did not avoid double counting altogether. Accordingly, the total figure of £180,000 (odd) in appendix 2A should have been further reduced to reflect these failures.

32 Despite the care and clarity with which those submissions were advanced, we do not accept them. We prefer the submissions made by Mr Benson KC on this ground. We start, as he did, with the context. These were POCA proceedings in which the appellant did not give evidence or call any witness on his behalf. Before the judge, his counsel attributed certain meanings to documents, but there was no evidence to support the interpretations so advanced. Indeed, the court was not assisted by him at all as to the value of his assets or as to what assets were available to him, despite the fact that the true extent of his realisable assets was peculiarly within his own knowledge. Moreover, he had the opportunity to explain any or all of the documents found on the memory stick and produced at trial, by giving evidence about them. Instead, he denied all knowledge of them and chose not to give evidence at all.

33 In fact the documents found reflect only a partial picture as Mr Benson emphasised. This is a point that the judge himself made. HOM/105 related to a different period during the three and a half year conspiracy period. Appendix 20 showed large amounts of cash going to the appellant in the year before the alleged conspiracy began. Moreover, as Mr Benson also emphasised, it was never accepted by the Crown that the amounts paid out to the appellant were or should be treated as limited to the entries identified as paid to Peter or P.

34 So far as the appendix 2A payments are concerned, it is true that the financial investigator conceded that there could feasibly be an element of double counting on the figures in appendix 2A, but the judge made no reference to any such concession. We have been taken very carefully by Mr Benson through each of the documents that supported the elements that made up the hidden asset figure in the judge's ruling. That exercise has demonstrated to us that there was in fact no double counting.

35 Taking them in turn, we deal first with the asset figure of £212,150.74 (albeit now reduced by reference to ground 1). This comprised payments set out at appendix 19 and was dealt

with by the judge at paragraph 48 of his judgment. It is clear to us that this sum did not include any sum taken from appendix 2A or HOM/105.

36 The next figure (dealt with at paragraph 49 of the ruling) is the HOM/105 appendix 2A figure itself. Appendix 2A is a schedule of payments. The Crown continues not to accept that these were the only payments, but they are payments totalling £118,640. We shall return to the four amounts to which Ms Bracken referred shortly.

37 So far as the appendix 20 figure of £106,185 is concerned (dealt with at paragraph 50 of the ruling), it relates to the period 2009 and, again, we are satisfied that the only amount that could conceivably have been double counted would have been the sum of £150 on 3 February 2010. But since the judge only counted sums over £500 we are satisfied that it was not included and there was no double counting in relation to appendix 20.

38 Next, appendix 21 (dealt with by the judge at paragraph 51) led to the sum of £7,784.17. Again, there is nothing in appendix 2A that appears there that could amount to double counting. The same is true of appendix 23 (dealt with at paragraph 53 by the judge) in the sum of £14,000. That sum does not appear on appendix 2A and there was no double counting.

39 That leaves appendix 22, dealt with by the judge at paragraph 52. The judge took a figure of £200,000 from HOM/195 appendix 22. He based the figure on an entry on that document that read as follows:

“So as of 31 May 2010 P still owed 50 for old AC and 150 for Abbott House. To P £200,000.”

That is the figure that the judge took. None of the payments immediately below the figure of £200,000 appear in appendix 2A and there was no double counting in relation to those payments.

40 There is however an entry in appendix 22 under a heading “New T and P from 1 June 2010” that reflects the four sums to which we earlier referred (totalling £12,000). In fact, those amounts appear under a column that included other amounts as well that do not appear on appendix 2A, and the total amount in that column is £15,000.

41 Ms Bracken submitted that the presentation of this document is not as per the original and that there were different headings. We have not been shown any other document that supports this submission. All we can do is look at the documents available and the conclusions reached by the judge, who expressed repeatedly his concern to ensure that there was no double counting. We can see where the £200,000 came from. It related to a period “as of 31 May 2010”. The entries in appendix 22 related to a subsequent period. There was no evidence before the judge, nor is there any evidence from the appellant now, to the effect that the £200,000 total fell to be reduced by the sums totalling £12,000 in appendix 22 and nor are we prepared to draw such an inference now. It would be unsupported by evidence, and therefore quite wrong to do so.

42 As we have said, the judge was faced with a situation in which the appellant did not give evidence to explain any of these points, as he could have done. He could have gone into the witness box to say that the sum of £200,000 was not in fact paid to him despite the entry. He could have gone into the witness box to say that the £200,000 was in fact subsequently reduced; or had been double counted in some specific way. He did none of these things. We have reached the conclusion that we cannot safely infer that there was any double counting by reference to the four amounts to which we have referred. Accordingly, this ground fails and is dismissed.

43 The result is that the appeal is allowed on ground 1 alone. The available amount is reduced to reflect the deduction of the sum of £42,675.34, made up by the four HMRC cheques to which we have referred. The hidden asset figure arrived at by the judge is quashed and for it

is substituted a revised hidden asset figure of £169,475.40. To that extent only, the appeal is allowed.

---

**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

*Transcribed by **Opus 2 International Limited**  
Official Court Reporters and Audio Transcribers  
5 New Street Square, London, EC4A 3BF  
Tel: 020 7831 5627 Fax: 020 7831 7737  
[CACD.ACO@opus2.digital](mailto:CACD.ACO@opus2.digital)*