

Neutral Citation Number: [2009] EWCA Crim 490

Case No. 2009/01092/C5

IN THE COURT OF APPEAL  
CRIMINAL DIVISION

Royal Courts of Justice  
The Strand  
London  
WC2A 2LL

Date: Wednesday 18 March 2009

B e f o r e:

THE LORD CHIEF JUSTICE OF ENGLAND AND WALES  
(Lord Judge)

MR JUSTICE IRWIN

and

MR JUSTICE WYN WILLIAMS

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R E G I N A

- v -

**ROBERT GRAHAM HODGSON**  
(Also known as Sean Hodgson)

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**Mr J Young** appeared on behalf of the Appellant

**Miss S Whitehouse** appeared on behalf of the Crown  
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**J U D G M E N T**

**THE LORD CHIEF JUSTICE:**

1. On 5 December 1979 in Southampton, a young woman, Teresa De Simone, was murdered. She suffered a terrible death. She was slowly strangled to death with her own clothing and just

before or just after she died she was raped. Her lifeless body was found on the following morning in her car which was parked in the back yard of the Tom Tackle public house.

2. On 5 February 1982, at Winchester Crown Court, before Sheldon J and a jury, the appellant was convicted of this murder. He was sentenced to imprisonment for life. Today, 27 years later, his conviction will be quashed. It is not safe.

3. We must face reality. The first inescapable and appalling consequence is that the appellant has been in custody for 27 years on the basis of an unsafe conviction. The second highly distressing consequence is that some very old wounds will have been re-opened for the family of the dead girl, and her mother in particular. The third consequence is that there will be understandable public concern as to how this has come about, which means that the judgment of the court should set out a full account of the extraordinary circumstances of the case.

4. In the broad public interest, therefore, we must endeavour to set out the facts as they are currently known to us, in order for the community at large to understand how this conviction came about, why it must be quashed, and how it was that these disturbing events took place.

5. We should however emphasise at the outset that, unlike many other miscarriages of justice, this conviction is not being quashed because some unacceptable feature of police misconduct during the course of the investigation has now emerged, or that any witness who gave evidence at trial was untruthful or mistaken, or even that anything done by anyone at the trial, seen in the light of the evidence as it then stood, is open to criticism.

6. The conviction will be quashed for the simple reason that advances in the science of DNA, long after the end of the trial, have proved a fact which, if it had been known at the time, would, notwithstanding the remaining evidence in the case, have resulted in a quite different investigation and a completely different trial. The point, dealt with very shortly for the moment, is that swabs taken from the dead girl at about 11am on the morning of 5 December 1979 have been re-examined. There are sufficient remnants of sperm on them for proper DNA analysis. The conclusion is that the sperm on the swabs did not come from the appellant. Whoever it was who raped the dead girl, on these findings it was not and cannot have been the appellant. The Crown's case at trial was that the man who raped the dead girl was also responsible for killing her. The new DNA evidence has therefore demolished the case for the prosecution.

7. We must set out the facts in more detail. The deceased was working in the evening of 4 December 1979 at the Tom Tackle public house. It was a two night a week part-time job, to supplement her full-time employment as a clerk. She finished work at just after 11pm and, together with a female friend, went to a night club. They used the friend's car. She left her own Ford Escort in the car park at the Tom Tackle. At the club the two young women were together all the time. The deceased consumed soft drinks. After spending time at the club, they returned to the car park at about 1am on 5 December. After dropping the deceased off, her colleague then went home. At about that time, and shortly afterwards, a number of witnesses heard screaming and the banging of car doors. At about the same time, another witness saw a man walking near the scene of the murder who appeared to be vomiting near to some railings.

8. The Crown's case was that the appellant, under the influence of drink, broke into the

deceased's car, intending to steal it, but then fell asleep on the back seat. When the deceased returned to her car she put her handbag onto the back seat and brushed against the appellant. He seized her by the back of her jumper, twisted it and strangled her, and when she was dead or dying he raped her, removing her underwear and tights with such force that one leg of the tights was torn from the other. Thereafter he made away from the scene after taking various items from the deceased.

9. In the morning of 5 December the landlord of the Tom Tackle was expecting a delivery, and it became necessary for him to try to move the deceased's car. He discovered the deceased and telephoned the police. Officers arrived at the scene, followed by the pathologist at about 11.45am. The pathologist described the deceased lying on her back, with her leg bent at the thigh and knee, with the knee resting against the back of the seat, and the left thigh running along the edge of the seat with the leg hanging over the edge. The body was naked from the waist down and her left breast was exposed. Part of a pair of tights was pulled down to the left ankle. The remainder of her underwear and the other part of her tights was found in the passenger well. Six swabs were collected at the scene: a low and high vaginal swab, two anal swabs, a mouth swab and a control swab.

10. The pathologist concluded that the cause of death was strangulation. However, a number of specific features of his findings are relevant to the issues which arise in this case. The air passages of the deceased were congested and contained abundant white frothy mucus. His evidence was that foam coming from the mouth of a victim of strangulation was not a feature of every strangulation, or even of most strangulations. It was a feature only of the long, slow strangulation from which this deceased had died. There were a series of multiple, roughly horizontal, linear, bruised abrasions on the front of the neck, approximately ten separate marks in all, and the pattern of the abrasions matched the description of the chain which the deceased had been said to be wearing that evening. There was no finger-mark bruising on the deceased of the sort which is sometimes associated with manual strangulations. The abrasions were consistent with the clothing having been gripped and twisted against the neck. In addition, there was damage to her genitalia: bruising at the back of the left outer lip of the vagina and a half-inch split on the posterior wall. The anus was swollen and the lower margins intensely congested. The buttocks were stained with blood and dirt. Semen was present in the vagina, in sufficient concentration to indicate that it had been present no more than three to four hours before death. No one suggested that the semen could have come from anyone other than the rapist. The vaginal swabs were tested and found to contain semen. The blood in the semen matched the blood group of the appellant, group A. The deceased belonged to blood group B. Grouping tests performed on the high and low vaginal swabs gave reactions for blood groups AB. This result could have been due to the secretions from the deceased with semen from a man with blood groups A or AB. In addition, a blood stain recovered from a Jay cloth found on the front seat of the car was also blood group A. However, as roughly 30% of the population belong to that blood group, the blood grouping did not prove that the appellant was the source of the blood, although it was consistent with his group and did not exclude him.

11. A search of the car produced a black comb from the rear offside well. The victim's handbag and other belongings were found in various places in the locality. Her car keys and jewellery, which included a watch, rings, and a gold chain with a crucifix, could not be found. Jewellery of a similar design was later depicted in newspaper articles.

12. The appellant was 28 years old. He had numerous previous convictions for offences of dishonesty and deception, as well as many related to offences involving motor vehicles. There was one conviction for unlawful sexual intercourse and another for being in possession of an offensive weapon. There were however no convictions for offences of violence. There is no doubt that even at that stage he was a disturbed personality, with a history of significant self-harming. We now know, and would admit in evidence, that he attended a clinic in 1978 after several incidents of overdosing. He was assessed as having "a severe personality disorder" and he was a "compulsive liar".

13. He went to Southampton on 4 December, the day of the murder, and booked into a hostel. He was later to say that he had visited the area of the Tom Tackle public house that evening. On 6 December he was arrested for an offence of theft from a motor vehicle. He was found in possession of property stolen from a car. On 7 December he said that he wanted to give some information about the Tom Tackle murder, which had naturally excited a good deal of media interest in the area. He made an allegation against an individual purporting to indicate that that individual appeared to have been involved in the offence. This man, however, was blood group O, and so he was eliminated from inquiries.

14. On 9 December 1979 the appellant was charged with offences of theft and remanded in custody. He was interviewed by detectives on several occasions in relation to this murder, but he was not seen as a suspect at that time. However, because of his blood group, and in view of his allegations, police inquiries were made into his whereabouts on the night of the murder. His movements at the time of the killing could not be verified or corroborated.

15. On 16 May 1980 the appellant made a further statement about the man against whom he had made the earlier allegations. On the same day he pleaded guilty at Southampton to theft. Sentence was deferred. He was granted conditional bail. He was arrested in London on 4 June 1980 and charged with other offences. Some keys were found on him at this time. On 14 July 1980 he was sentenced to three years' imprisonment. On this occasion he admitted a large number of relatively minor offences. He could not have committed all of them. Some had occurred while he was in custody.

16. By now there had been a huge amount of coverage of the murder both in the local press and on television and radio news. The coverage included details, but not all the relevant evidential features, of the murder and the rape, the theft of property from the deceased, and included a picture of an oval-shaped watch.

### **Confessions**

17. The appellant's confessions were crucial to his conviction. The Crown did not rely on the confessions as such. They focused on the detail provided in the confessions which, on the Crown's case, could only have been known to the man who was responsible for the crime. They relied on other matters as supportive of the confessions, such as the findings consistent with the appellant's blood group, and his undoubted presence in the locality at the relevant time. It is perhaps worth emphasising that it was never suggested at any stage in the trial, or indeed in any material which we have seen, either that any one of the individuals who reported that the appellant had made a confession to him was lying or mistaken about the fact and terms of the

confession, nor that anyone to whom he had made a confession, including in particular the police, had behaved improperly by bullying or pressurising him in any way at all. In other words, on the evidence before the jury it was not disputed that everything that he was reported to have said had been said by him and that what he had said was voluntary. Obviously, so far as his own written admissions are concerned, he wrote them and they too were voluntary.

18. The appellant was not linked to this murder until he confessed to it on 11 December 1980 when he asked to see a priest. In this first confession the appellant said that he was having nightmares and the face of a woman he had killed kept coming back to him. The killing, he said, had happened in Southampton about twelve months earlier. He told the priest that he was particularly troubled because this was around the anniversary of her death.

19. The next day, after seeing a solicitor, the appellant told a prison officer that he had confessed the Tom Tackle murder in Southampton to a priest. The prison officer made a note of what the appellant had said. He said that he had hit the girl to keep her quiet. He had later taken her by the throat. He had ripped her clothes and taken her oval-shaped wrist watch, which he sold in a public house the next day. He said that he had been questioned by the police in Southampton and had admitted other offences so that he would be taken away from the scene of the murder.

20. The appellant wrote a letter dated 9 December 1980. In it he recorded:

"After much deliberation and thought and confession with the priest here in Wandsworth, after all the trouble I have caused, not only to you, the police, but myself, the mental torture I have gone through, the family of the person concerned, I must for my own sanity and the punishment I will receive for this horrible crime, I wish now that it was me that was dead and not the person I killed at the Tom Tackle pub. .... I did the murder, why I don't know. So all I can say is let justice be done ...."

21. Unsurprisingly the police were informed. On 15 December they went to see him in prison. It emerged that the appellant had admitted the offence to a solicitor. He did not want a solicitor present at this interview. A record was made. It is a very long, detailed account. It refers to the strangulation of the victim after one almighty struggle. He said, "There was all foam coming from her mouth". He ended by saying that he had to tell someone.

22. In later questioning on that day he described how the girl had "sat on the seat with her legs outside, and then as she swung them in, she pulled the door shut". That coincided with her mother's description of how the deceased would get into her car. The appellant described how afterwards her legs were left in "a funny position to describe" after the attack, but he said that he did not think that he had assaulted her sexually. He described a watch and a broken chain.

23. He was asked why he had pointed a finger at the man against whom he had made the earlier allegation. He said, "To take the heat off me so that you wouldn't ask me questions. It's obvious, isn't it?"

24. Thereafter, on 19 December 1980 the appellant was brought to Southampton from prison to be taken over the various routes he said he had used during the crucial days. Later that day he identified the place where he had sold the watch, after taking some jewellery from the car. He described how he had thrown away the girl's diary, and in a sketch showed a red brick wall and an area with a broken wall. This appeared to coincide with the place where the victim's handbag and purse were found.

25. On 21 December 1980 the appellant asked to see a prison officer. He then dictated at great speed an account of how he had "done the murder and must face my punishment". Again, a considerable mass of detail was provided. He referred to the police taking him to the scene and showing him some photographs. He said, correctly, that the deceased's car was "N" registered. He had opened the car with his keys and started it. He moved it a couple of yards and went to sleep. He described the struggle and the fact that her clothing was torn. He said that afterwards he had made his way from the yard and that he had been sick. The officer taking the note thought that in a sudden rush of words the appellant said that he had stabbed the girl in the lower part of her body with something he had found in her car.

26. Two days later the appellant handed two exercise books and six pieces of paper to another police officer. In these accounts he asserted, untruthfully, that he knew his victim who had spurned him. The first account contained less detail, but asserted that he had asked time and time again for someone "to help me put this statement in my own words .... I would like the truth to be known. So, please, can I have help".

27. The next exercise book asserts that he "did the murder" and that there was nothing he could do himself to bring her "back to life. What am I to do to punish myself for this appalling crime?"

28. On Christmas Day he handed another prison officer a written admission, this time that he had killed a man in Bruce House, Covent Garden, London, which, according to his account, the prison department thought was "a load of shit". He was taken to the prison hospital and put into an observation ward. Two days later he saw another prison officer and repeated his admission that he had committed a murder of a man in London in Covent Garden, and then added a further admission that he had "also murdered a homosexual in a flat in North London at the end of '78 or '79". These confessions were undetailed and lacking in specifics. However, they were confessions to murder. They were investigated. They were false confessions. The murders had not happened.

29. On 29 December 1980 two further letters written by the appellant were found by a prison officer. He asserted that "since 1964" he had "led a very bad path of crime, killing, maiming, all for drugs and drink".

30. The police returned to see the appellant on 2 January 1981. The appellant saw his solicitor before the interview began, and his solicitor was present throughout. The appellant said that he wanted to make a statement. There were "more things" he remembered. There then followed an interview which was contemporaneously recorded and signed by the appellant. His solicitor asked that a note should be made of the fact that he had advised the appellant not to make a statement. The appellant said that he wanted to start at the beginning. He asked the question whether the police had "the jacket which had slime from her vagina on it and pubic hair -- bits

and pieces from down there, and blood, I think?" Thereafter, a lengthy, detailed statement was produced. After describing the strangulation he said that he had tried to rape his victim. Later he spoke of trying to have sex with her again, that is after he had forced her to have sex with him, when he had ejaculated. He said that he had tried to push a tyre lever inside her vagina. By the end of the incident "one of her legs seemed to be up on the back parcel shelf and the other one was down behind the driver's seat".

31. He was then asked about the admissions to the two other murders. He was told that these offences were not known to the police and apparently had not happened. He was asked why he admitted them. He explained his admissions on the basis that he wished to clear things up. He said that he had been told about the death of the victim of the first murder, who had died of a heart attack. He wondered if it was the same man he had "gone over the cubicle to". As to the second, he had "done a homosexual over", but he had not killed him. He worried in case that was the one he had "done over" who had died.

32. Later he described how, after killing the deceased, he was gasping for breath, heaving, trying to be sick, and crying with no tears when a light came on and somebody looked out of the flats above the shop. That was consistent with the evidence of a witness who, after hearing sobbing, turned on her bedroom light before looking out at the scene and observed a man, still sobbing and vomiting or trying to vomit.

33. At the end of this interview, the appellant wrote two further letters to the investigating officers. The first had to do with the possible admissibility of his confessions, and his concern that as a matter of law they might not be admissible. The second expressed his desire to be charged because he felt "so much remorse" over the "whole affair". He would never forgive himself for killing Teresa. He just wanted to be charged, to plead guilty, and get whatever he was going to get. He continued:

"Nobody in their right mind would hold their hands up to murder as I have done with the thought of a life sentence, but I did because I did it. So can you do what you can to sort things out and get the wheels in motion, as they say."

34. On 18 February 1981 he was seen again by police officers and asked about a number of items of property. He was asked about a red Ladbroke's pen found near the scene. He claimed that it was his own and that he also had a green pen, which was found with his property. He said he had last seen the red pen the day before the murder. He was also asked about a black comb which was found on the floor behind the driver's seat in the victim's car. The appellant started to look for marks on the comb. He identified it as his comb. He said that it was a prison issue comb with his initials scratched on it. He pointed to some scratches and said they were "R" and "H". He said that he last saw the comb on the night of the murder but did not know what had happened to it. Later microscopic examination of the comb confirmed that there were scratch marks on it which had been made deliberately, and it was of a type issued by the Home Office for distribution in prisons. Finally, he was asked about a bunch of keys taken from him by the police when he was arrested in Trafalgar Square. One of them was what he described as a

"jiggler", which could be used to unlock all Ford cars, as well as start them. He said that he had used the jiggler to unlock the victim's car. When tested, the jiggler did indeed work.

35. All this evidence was given at trial. It was a feature of the evidence that the appellant had made repeated false claims to have committed criminal offences. Some of the claims were demonstrably false. They included offences of murder that had never happened. All this was elicited before the jury. Much was made of the fact by his counsel at trial that the appellant was a proved, skilful and pathological liar. All that material was before the jury. So, too, was the fact that the various confessions made by the appellant were not always consistent among themselves. However, the prosecution did not rely on the simple fact of the confessions. The confessions to involvement in the murder were made to a number of different people at a number of different times in a number of different ways. Even making allowances for the demonstrated tendency of the appellant to make things up, there were, among other things, these critical features of the killing which were described by him at different times in his confessions.

36. No information was given publicly about the precise position of the deceased's body in the car. The information released was that the body had been found half naked in the back of the car, but no details as to its exact position were given. Information was also released that the victim's clothing had been torn, but not which items of clothing had been torn, and in particular the fact that one leg of a pair of tights had been torn completely away from the remainder. In one or other of his confessions the appellant appeared to describe these matters. The appellant had also said more than once that foam or froth came from the mouth of the deceased while the strangulation was taking place. Foaming at the nose and mouth would be consistent with a long, slow strangulation, which occurred. That was what the pathologist found. It was not publicised. The appellant said that he had used the deceased's clothing around her neck and twisted it to strangle her. The marks on her neck were consistent with this method of strangulation rather than manual strangulation. That was not public knowledge. It was never disclosed that she was injured in the vaginal area, or that there had been bleeding from the vaginal area and damage to the anal area. It was not disclosed that a neighbour had looked out of the window to see who was responsible for the sobbing on the night of the murder. As to the property of the deceased, the appellant said that he had stolen a watch from her and sold it in the public house the next day. Her watch had indeed been offered for sale in this way. This, too, was not public knowledge. We need not describe any further aspects of the confessions which, as the appellant described them, appeared to confirm his personal knowledge of important features of the crime.

37. At trial it was suggested on his behalf that there were three possibilities. The appellant may have discovered the information or some of it from the media, or the police, or had simply guessed intelligently. As to the media, all the available newspaper and television programmes were available to be studied. They did not reveal what were described at trial as the secret details. As to the police, it was never suggested to any of the officers that they had disclosed any of these secret details to the appellant when they interviewed him, and the appellant never said so in any of his later interviews or in his letters or statements. That left intelligent guesswork, but these were very detailed and accurate pieces of information, whereas, by contrast, the admissions to the murders which he had not committed contained no such details.

38. When the appellant's opportunity to give evidence came, he chose to make what was then permitted, an unsworn statement from the dock about which he could not be cross-examined. He

said:

"I would like to tell the members of the jury why I can't go in the witness box is because I am a pathological liar. Secondly, I did not kill Teresa De Simone. Thirdly, every time I have been nicked by the police, which is on many occasions, I have made false confessions to crimes I have not committed, and this is the reason why I am not going into the box."

The effect of this unsworn statement must be addressed head on. It meant that the jury heard no evidence from the appellant, either to explain his movements or whereabouts at the time of the killing, or to explain the reasons why he had chosen to make the confessions he did, or how he had come to know so many of the details relating to the offence which were included in them. The jury retired to consider their verdict shortly before 11am on 5 February 1982. Their unanimous guilty verdict was returned at 2.15pm.

39. An application was made for leave to appeal against conviction. A number of points were taken but it is sensible to notice that the case advanced on behalf of the appellant at this stage was directed to what were identified as a number of contentions in relation to the confessions. These were said to be the false confessions of a pathological liar who regularly confessed to crimes he had not committed. The confessions he made were composed out of: (a) what he believed to be the truth from articles in newspapers and reports on television; (b) what he discovered at the police station or was told by the police or prison officers; and (c) intelligent guesswork. It was contended that to add weight to his false confessions he eagerly identified any object which the police led him to believe had been found at the scene of the murder and that, having discovered from the newspapers that a lady's gold watch had been taken from the dead girl and having seen a photograph of a facsimile, he untruthfully claimed that he had sold that watch to a man in whose company he had been at the public house in Winchester on the day after the murder.

40. The problem with these grounds of appeal and the contention generally was that, however forcefully they may have been advanced in argument by counsel, whether earlier before the jury or before the Court of Criminal Appeal, the appellant had not said any of these things for himself in evidence, or indeed addressed them in his unsworn statement. It is therefore unsurprising that the application for leave to appeal against conviction on these grounds was refused. The remaining grounds were without substance. The appellant himself was either unaware of, or had forgotten that leave to appeal had been refused in May 1983.

41. There is an additional feature to which we must draw attention. We were told this morning by Miss Whitehouse on behalf of the Crown that in 1998 an inquiry was made by solicitors then acting on behalf of the appellant to the Forensic Science Services to discover whether the relevant exhibits associated with the Tom Tackle murder were available. Presumably that request would have been made in order to see whether further testing might then be possible. The inquiry failed. The response from the Forensic Science Services, as we are told today, was that none of the exhibits had been retained. That was plainly wrong. We are told that the matter has been referred to the appropriate forensic regulator. We can say no more about it until those

investigations have been completed.

42. We can now take up the story from the affidavit of Mr Julian Young, whose firm has taken on the responsibility for the conduct of this appeal. The appellant was seen by Mr Young's partner, Judy Ramjeet, in late April 2008 in order to take his instructions about a possible appeal. At that time it was extremely difficult for her to take detailed instructions because of the continuing medical and mental health difficulties from which the appellant had been suffering for many years and from which he apparently continues to suffer. Indeed he has been an inmate in a prison hospital wing or psychiatric hospital on numerous occasions since his conviction in 1982. However, the matter was investigated, and gradually what remained of the papers were accumulated. More important, the existence and whereabouts of the exhibits from the original investigation were established and located with the assistance of the Hampshire Constabulary and the Director of Public Prosecutions. It is perhaps worth noting in this dismal story that both the prosecution and the police have demonstrated their commitment to the interests of justice by co-operating positively and fully with the solicitors for the appellant to try to ensure that all the available material was produced and examined. None of the original defence papers are in existence. They were destroyed years ago in accordance with ordinary professional practice.

43. An application was then made to the Legal Services Commission to authorise the funding to instruct an expert in the area of DNA analysis on the basis of scientific developments since the trial. Again, the Hampshire Constabulary decided that they would be responsible for funding the re-examination and analysis of the samples against known samples taken from the appellant. In December 2008 the Crown Prosecution Service notified Mr Young of the first results of the examination. However, Mr Young was asked to postpone any steps until the entire process was completed. As soon as the results as a whole became available, by letter dated 30 January 2009 it was confirmed to Mr Young that the semen detected on the remaining vaginal and the anal swabs could not have originated from the appellant. Within a few days Mr Young signed and lodged grounds of appeal against conviction with this court. Mr Young, like the appellant, was unaware of the earlier dismissal of the application for leave to appeal against conviction. The Registrar of Criminal Appeals and his staff immediately set about the process of bringing on the appeal. After searching through the records for 1983 (that is before computerisation) they discovered some old papers relating to the unsuccessful application for leave to appeal. Accordingly they suggested to Mr Young that, in accordance with the statutory provisions, the case should be referred to the Criminal Cases Review Commission. This was done. The Commission received a letter dated 26 February 2009 from the Special Crime Division of the Crown Prosecution Service which indicated that if the case were to be referred to the Court of Appeal as a result of the new DNA evidence, the Crown would not oppose the appeal. Without conducting its own analysis of the relevant facts or law, but basing itself on the new DNA evidence and the letter from the Crown Prosecution Service, the Commission rightly decided to refer the conviction immediately to the Court. The reference was dated 4 March 2009, and was listed at an early stage. Again, quite rightly, Mr Young did not seek bail for the appellant pending the hearing of the appeal. Questions about the appellant's mental health needed to be considered, and the arrangements for his accommodation if the appeal were successful had necessarily to be put in place.

44. We are grateful to Mr Young and those who have assisted him for their considerable efforts on behalf of the appellant, and to Miss Whitehouse and the Crown Prosecution Service and

Hampshire Constabulary for co-operating as they have and examining the case with the calm dispassion which, notwithstanding the horrendous circumstances in which this young woman met her death, it demanded.

45. That concludes our summary of the essential facts which led to this unsafe conviction and the circumstances in which it came to be identified. It can now be rectified. The decision leaves some important, unanswered questions. Perhaps the most important is that we do not know who raped and killed the dead girl. We can but hope for the sake of the appellant and the family of the murdered girl that her killer may yet be identified and brought to justice. But for now all we can do is to quash the conviction. It is accordingly quashed. The appellant will be discharged. There will be no new trial. This judgment will be posted on the judicial website as soon as possible.

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