

TRANSCRIPT OF PROCEEDINGS

Ref. T20177306

IN THE CROWN COURT AT BRADFORD

Exchange Square
Drake Street
Bradford

Before HIS HONOUR JUDGE DURHAM HALL QC
THE RECORDER OF BRADFORD

R E G I N A

- v -

**BASHARAT IQBAL KHALIQ, SAEED AKHTAR, YASAR MAJID,
NAVEED AKHTAR, PARVAZE AFZAL AHMED, IZAR KHAN HUSSAIN,
KIERAN HARRIS, ZEESHAN ALI, FAHIM IQBAL, MOHAMMED USMAN**

**MS K MELLY QC and MS S BEATTIE (instructed by the Crown Prosecution Service)
appeared on behalf of the Prosecution**

**MR A IQBAL QC and MR F ARSHAD appeared on behalf of the Defendant Khaliq
MR P MOULSON QC and MR A SHAKOOR appeared on behalf of the Defendant
Saeed Akhtar**

MS G BATTIS appeared on behalf of the Defendant Majid

MR R FRIEZE appeared on behalf of the Defendant Naveed Akhtar

MR A BELL appeared on behalf of the Defendant Ahmed

MS G KELLY appeared on behalf of the Defendant Hussain

MR G WILSON appeared on behalf of the Defendant Harris

MS F HERTZOG appeared on behalf of the Defendant Ali

MR A DALLAS appeared on behalf of the Defendant Iqbal

MR R FERM appeared on behalf of the Defendant Usman

PROCEEDINGS

15th FEBRUARY 2019, 10.04-15.10

REPORTING RESTRICTIONS APPLY:
SECTION 4(2) OF THE CONTEMPT OF COURT ACT 1981
SEXUAL OFFENCES (AMENDMENT) ACT 1992

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B

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(The jury entered court at 10.05)

E

JUDGE DURHAM HALL: Good morning. Everybody there, yes, jolly good, thank you. Just switch the - yes. Just turning you on, sir, thank you. Plugging you in, all right. All ready to go, thank you. Ms Batts, thank you.

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MS BATTS: Well, good morning, members of the jury. It now falls to me to address you on behalf of the defendant that I represent, Yasar Majid. Now when the prosecution opened this case to you, it would have become obvious immediately that [Person A] was alleging that she'd engaged in sexual activity with each of these men to varying degrees. In some cases it was unwanted touching at one end of the spectrum through to allegations of violent rape at the other end. So when you take a look at the dock, there's an impression, isn't there, that all of these men, each and every one of them, have done something to her or with her.

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So from a perception point of view, it's easy to think of this case as a numbers game. The fact that she's made allegations against so many men means that, yes, she was abused. It means that [Person A] is a victim. It means that she was used and abused and passed on from one man to the next. Labels, stereotypes and generalisations are what this prosecution case is all about. What the prosecution have done is to invite you to accept their take on the general picture and the number of men involved. And that's why the prosecution case has been to approach this on the basis that all of the men at [Sid's address] are in this together. They're all

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A guilty, it's a one size fits all approach and, with respect, there's no real analysis of the dynamics of the individual case.

And so it's the dynamics of Mr Majid's case that I'm going to focus on in my submissions to you. The prosecution have asked you to look back in time through the eyes of **B** a now older, more mature [Person A]. We've all done it, members of the jury, haven't we. We've all looked back at things that we've said or done and wished that we hadn't done it. You may all at one time or another, during the course of your lives, look back at the choices that you made, the decisions that you took, particularly when you were younger and wish that you'd acted differently. It's all very well to look back, isn't it, with regret, to look back and **C** say: well, it wasn't my fault. But what I submit, members of the jury, is that [Person A] is trying to rewrite history.

It's undisputed, members of the jury, that Yasar Majid was the first person that [Person A] had sex with once she started hanging around at [Sid's address]. It was once, it was a one-off, a one night staff or whatever you want to call it. She accepted, members of **D** the jury, and this is the evidence, that she agreed to sex and she accepted that she thought, yes, when they had sex on that one occasion she was on top of him. Yet still, members of the jury, despite that, despite the evidence, because of the circumstances, because of everything else that [Person A] says was going on at [Sid's address], the prosecution have decided to **E** charge this man of not just good but absolutely impeccable character with the serious offence of rape. So what do the prosecution have to prove, members of the jury?

What do the prosecution have to make you sure of? Well, they have to make you sure that penetration took place. No issue there because he accepts that he had sex with [Person **F** A]. But they also have to prove that she was not consenting and that Yasar Majid did not reasonably believe that she was consenting. Now you know, members of the jury, that there are two versions of events here. As a matter of common-sense, both of them can't be right. In summary, [Person A] says that she went upstairs to bed and she was joined by Yasar Majid who tried it on with her. She said she wanted to go to sleep and then she agreed, reluctantly, to have sex. The defendant, on the other hand, says she made it clear to him that she liked **G** him, that she took the initiative. They had sex and she was on top of him. So when you're deciding, members of the jury, where the truth is, that one detail, that one little detail in amongst all the evidence that you've heard, him saying she was on top of him and [Person A] says, yes, she thought she was, that might give you some insight, some indication, some signpost as to where the truth really lies. **H**

A But, members of the jury, in my submission, you don't have to choose which version of events you think is the truth. It doesn't follow that if you think [Person A] is right, then he's guilty because what I submit is that, even on [Person A]'s version of events, the prosecution have fundamentally failed to establish guilt in his case. I just want to summarise, members of the jury, what the prosecution's closing submissions to you were about Yasar Majid. It went something like this: well, there are big differences in the accounts of [Person A] and Yasar Majid. Why would she lie? What he says is all nonsense and he's guilty, and really that was the extent of it.

B If that's the case, members of the jury, then what's the point of this trial process? You've seen [Person A] give evidence. You've seen her evidence tested and you've also seen him give his version of events. So just what is it, members of the jury, that the prosecution are alleging against Yasar Majid to establish, to prove to you that [Person A] was not consenting and he didn't reasonably believe that she was? Well, let's have a look at it. The prosecution, they say he is one of the men that had sex with [Person A] at [Sid's address] and she was groomed. "Grooming", "groomed", loose words, members of the jury, that have been thrown around in this courtroom.

C The defence submit that the way the prosecution puts its case against Yasar Majid lacks clarity. He's been grouped together with the other men from [Sid's address]. And the prosecution, it seems, are keeping their options in so far as Yasar Majid is concerned. What is it exactly that they're saying? It seems there are a number of possibilities. Is it, one, that she told him she wanted to go to sleep and that meant no, and even though she agreed to have sex that wasn't genuine consent. Is it, two, because she'd had drink and drugs, she wasn't in a fit state to give genuine consent? Is it, three, that even in those early days of [Sid's address], she'd been groomed to the extent that her consent wasn't genuine? Or is it, four, is it all of those above, see what sticks?

D So let's deal with those points in turn, members of the jury. Number one, [Person A], even on the basis of her evidence, the defence say that you can't be sure that she was not consenting. Put his account of things aside just for a minute and focus on what [Person A] had to say. You might think, members of the jury, that the evidence establishes that she was consenting.

E I just want to remind you of a few short parts of her interviews that were conducted with the police. In that first interview, she described how she'd slept with Yasar Majid. In the eighth interview, the officer said to her, "Well, you said it weren't really forced". And [Person A] said this, "I can't explain it. Like I said, Yasar is not like all them others. It were

A like he wanted to prove a point. It's not that I wanted to sleep with him, but I didn't not want to sleep with him either. Does that make sense?" Does that make sense to you, ladies and gentlemen? She was asked what she meant by that and she said, "I can't explain it". Next question, "Do you think that the sex with him was consensual? Yes". Now in cross-
B examination, members of the jury, it was put to [Person A] that she agreed to sex and she said that she did. And she was also asked in cross-examination by me about the position that she had sex in and I put to her that she was on top and she said that she thought she was on top when she was having sex.

C Now, members of the jury, I don't say this to embarrass you. I certainly don't say it to embarrass myself. But we're all adults here in this courtroom. She accepted this. She accepted that she thought she was on top. Now you might think that it's one thing for a person who is indifferent or doesn't really want to have sex to submit to it, even though they don't really want to. Just think about what the prosecution case is. The prosecution are saying that she said, "Let's go to sleep" and she wasn't interested at all, so she wasn't
D genuinely consenting when she agreed.

And you might think, members of the jury, that it's an absolute remarkable turnaround for [Person A] to go from the mindset of wanting to go to sleep but then not only to agree to sex, but to get on top of him and have sex with him. You might think, members of
E the jury, that as a matter of basic common-sense, that for the woman [Person A] to get on top, doesn't that act alone show some willingness and, beyond that, some enthusiasm, active enthusiasm for what was taking place? Members of the jury, I don't want to be crude about this but she didn't just lie back and let him get on with it, did she? She got on top of him. And you might think, members of the jury, that the case against Yasar Majid really starts and
F finishes there.

Secondly, members of the jury, drink and drugs. Now the impression that you might have been given by [Person A] in interview was that she was in no fit state to consent because she had taken drink and drugs and no doubt you will want to examine that with care. Effect of the drink and drugs can also make you more confident, can't it, less inhibited. But what I
G really want to focus on, members of the jury, is what she says about the state that she was in. It's important that you bear in mind, and you'll be reminded by his Honour when he gives his legal directions to you that you must follow, that a person can still consent in law when under the influence of drink or drugs because drunken consent is still consent. In one of her
H interviews, members of the jury, [Person A] said this. She stated that she did not think that

A she was in a position to consent because she was drunk and high and couldn't really remember it.

She was asked, "Well, were you in a position to consent to that sex?" "Not really. I were really drunk and really high because I can't remember it. I can't remember it properly".

B "Well, if you hadn't been drunk and high, would you have had sex with him?" "I don't know. I've never actually been in that situation. Part of me thinks, yes, but part of me thinks no". So, on that issue, members of the jury, in relation to the issue of drink and drugs, you might think that there was a real shift in [Person A]'s evidence. Remember that, in the course of those interviews, what she was saying was, well, she couldn't really remember the time that she had sex with Yasar Majid.

C But there was a shift, wasn't there, a real shift, to the extent that when she was cross-examined and when she was re-examined, she was able to recall, wasn't she, specific details about what happened both prior to and in the course of sexual intercourse with Yasar Majid. A complete contrast to her initial account that she couldn't remember it properly. So, members of the jury, it might assist you if I just list some of the things that she was able to remember which you might think really demonstrates that she wasn't that drunk, that she wasn't that high and she most certainly did have a good recollection of events.

D What was it, members of the jury, did she just not want to tell the police the detail? She remembered the room that sex took place in, the second room at Sid's house which she described as her room. In re-examination, she was able to recall what was going on downstairs before sex took place. She said that she went upstairs to bed and the defendant came with her. In re-examination, she said she couldn't quite remember whether he came upstairs or whether she - that was a natural thing that he came up with her, whether she asked him to come. Before sex, there was this exchange, wasn't there, her saying, "Let's go to sleep", a detail missing from her interviews.

E In cross-examination, she accepted that she agreed to have sex with the defendant and that detail, members of the jury, that signpost that, in my submission, tells you everything you need to know about this case against Yasar Majid. She accepted that she thought she was on top of the defendant when they were having sex. There's no evidence, is there, that Yasar Majid had given her drink or drugs and so, members of the jury, you might feel able to disregard any suggestion that she was so incapacitated through drink or drugs that she was unable to consent.

F Thirdly, members of the jury, grooming. My learned friend, Mr Moulson, has dealt with much of this, so what I'm going to do is to focus on it from Yasar Majid's perspective.

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A You may well feel, members of the jury, and it's a matter for you but it's also a matter of common-sense, that there are things that you've heard in evidence that made [Person A] vulnerable. But you may also think, members of the jury, drawing on your own experiences of life and of people, that many of the things that [Person A] was doing at the age of 16 were the things that many other people of her age also like doing.

B 16 year olds, members of the jury, you might think, like experimenting and like drinking alcohol. They like smoking. They like hanging out with other people. They like partying and they like having sex. The impression that [Person A] was at pains to give you was that the environment at [Sid's address] was what she craved. It was being in the bosom of a family that she didn't have, that sense of belonging. Well, do you remember, members of the jury, when I asked her about those early days at [Sid's address] when she was meeting new people, this group of new friends. And I asked her, didn't I, "Well, you know, was that exciting for you?"

C Well, she took exception to that, didn't she. She wouldn't have it, would she, that she was having a good time. No, it was all about the sense of family and belonging. [Person A] couldn't even bring herself to accept that, actually, she liked going to [Sid's address] to enjoy herself, to have fun, to do some of the things that 16 year olds like doing. Remember what the social worker said, [Person A] used to say that she was partying when she went to [Sid's address]. Isn't the truth here, members of the jury, that she liked going to [Sid's address] to party; she liked the booze; she liked smoking. Members of the jury, this wasn't about family and belonging. It was about hanging out with older people, drinking, smoking, having sex. She just wouldn't have it, would she, that this was a fun place to hang out despite even being reminded by me that that's how she described it in the earlier trial.

D Members of the jury, in my submission, [Person A] is overplaying her sense of attachment and emotional dependency. Why? Because it's a tool. Because it's convenient. Because it allows her to say that the way that she behaved with Yasar Majid was all somebody else's fault. Now, on behalf of Yasar Majid, I've already made submissions about the generality of the prosecution approach, but please focus. Focus on him and if there's one word that you remember from my closing submissions to you, please remember this, it's the word, "Chronology", because, in my submission, the chronology here is important. Yasar Majid was the first man to have sex with [Person A] at [Sid's address]. She said that she met Yasar Majid the second time she went to Sid's house. He said that sex took place after that first meeting the second time that he met her. So, on any view, members of the jury, his involvement came right at the beginning. What you shouldn't do, members of the jury, is to

A sweep up everything else that [Person A] says went on at [Sid's address], most of which must, of course, come after the time when he'd had sex with her and in some way use that against him. Focus, please, on the chronology.

B You may also, members of the jury, want to consider the way in which the prosecution case was opened to you: [Person A1]'s life now introduced to the house at [Sid's address] would never be the same again. One of the ways that [Person A1] was manipulated was by men pretending to be in a relationship with her, having sex with her and then passing her on to the next man. Well, that was not right, was it, members of the jury, because you know looking at the chronology that one of the men who took her [Sid's address] in the first place was a man called [Person FFF1] and she went out with this man, [Person FFF1]. And her evidence is that he pestered her for sex. And what she said was that she told him to wait a month and that she wasn't going to have sex with him until a month had passed. And, in her words, she stood her ground.

D So despite everything that was going on at [Sid's address], the drink, the drugs, these blossoming feelings of attachment, she didn't give in to [Person FFF1]. She stood her ground. Her will wasn't overborne. So what is it the prosecution are saying, members of the jury? That the next man in line, Yasar Majid, by the time he came along all of these things had overtaken her and she was unable to give genuine consent? How is it you might think, members of the jury, as a matter of logic she's able to stand her ground and say to one man and, then, within a space of what must have been days or weeks, having sex with Yasar Majid on top of him and it's rape because of all the surrounding circumstances?

E How does that stand up to scrutiny, members of the jury? It cannot possibly be said that at this stage, at this early stage in the chronology of events at [Sid's address], that she'd been conditioned into having sex because she hadn't had sex with anybody else, had she, at [Sid's address]. She'd said no to [Person FFF1]. Now this pressure that [Person A] says that she felt to have sex with Yasar Majid certainly didn't come from him. Her evidence, members of the jury, was that he wasn't pestering her to have sex. She says it came from others.

F Well, members of the jury, those other people weren't in the room, were they, at the time when they had sex and it's a fiction, members of the jury, to say that there was this pressure. It's something that she can use to blame others and to absolve herself of any responsibility of the decision that she took to have sex with him. This is what the prosecution said in closing to you, members of the jury. Once those bonds of loyalty are formed, they rely on those bonds and, once those lines are set up, they are exploited. Again, you might

A think, members of the jury, a broad and sweeping generalisation about grooming. How is that relevant to Yasar Majid's case? It can't possibly be, can it, on the chronology.

B [Person A] said that she met Yasar Majid on her second visit to [Sid's address] right at the start. These feelings of bonds of dependency, of loyalty that the prosecution talk about, they can't be instantaneous like that. There's a difference, isn't there, between an emotional attachment and enjoying somebody's company. Even [Person A] was able to acknowledge that, members of the jury, because this is what she said. This was in re-examination, that this attachment wasn't fully there, it started developing and the attachment got stronger over three months. Of course, it wasn't fully there, members of the jury. How could it possibly have
C been there right at the start. So that's why, members of the jury, it's important that you focus on his case and what was going on and don't allow yourselves to be carried along by these sweeping generalisations made by the prosecution. These factors that the prosecution are relying on in some way to prove his guilt just didn't exist at the time when he had sex with her.

D Now you've heard reference, members of the jury, to what I'll call emotional dependence, [Person A] being made to feel as though she was part of the family at S[Sid's address]. [Person A] accepted that Yasar Majid didn't make any such comments to her. There's no evidence that he personally did anything at all to contribute to these feelings that she describes. You might think, members of the jury, that another piece of evidence which
E demonstrates that [Person A] was capable, well capable of making choices is this. In her words, after she split up with [Person FFF1], you remember the first man that she went out with at [Sid's address] that she didn't have sex with, she went out with Yasar Majid to piss him off - excuse the language but I'm using [Person A]'s words. This is what she said, "I don't know how it led to me and [Person FFF1] breaking up, but we did and then there were
F Yasar and to piss [Person FFF1] off I went out with Yasar".

Now [Person A] alleges that she went out with Yasar Majid and he says this was never the case. There's clearly a conflict there. But what does that tell you about her and her mindset if that's right? She agreed she had a choice about whether she want out with Yasar
G Majid and she chose to go out with him. And she understood, didn't she, what the concept of doing something to piss somebody else off meant. She knew that the fact that she was in a relationship of sorts with someone else would have that effect on [Person FFF1]. She said that she didn't think it was a possibility that she would be intimate with Yasar Majid. Do you think that's remotely credible? Do you think there's any truth in that, members of the jury,
H bearing in mind she'd been fighting [Person FFF1] off the previous month? She accepted,

A members of the jury, [Person A] accepted that she was using Yasar Majid initially. She didn't really fancy him but he was nice to her.

B Who's playing who, members of the jury? Who's manipulating who? Is Yasar Majid a cynical manipulator grooming [Person A] and she's going out with him to piss [Person FFF1] off? It very much looks like the other way round, doesn't it? Now, in my submission, members of the jury, there's one piece of evidence, one feature of this case, which demonstrates that the prosecution theory about what was going on at [Sid's address] and the part that Yasar Majid played in it is fundamentally flawed. The prosecution say that he was there and he was aware of what was going on and he played his part. So just think about what that must mean then. That must mean that he wanted to play his part in this cynical game of manipulation to pretend that he was her boyfriend and use her for sex. Well, when you consider what [Person A]'s evidence was about this, it doesn't stand up to any sort of scrutiny.

C Now, members of the jury, there are three reasons why it doesn't stand up to scrutiny. Firstly, she accepted that prior to this night when they had sex on this one occasion, he didn't pester her for sex. So if it's all about sex, ladies and gentlemen, if it's all about grooming for sex, well, he wasn't very bold was he? He wasn't a very good groomer, was he? Because he wasn't pestering her for sex and that's the prosecution's witnesses' own evidence. There was no sexual activity, not even a kiss, before they had sex on that one occasion. If he was turning up, members of the jury, at [Sid's address] with a secret motive to groom [Person A] and have sex with her, well, he kept it pretty much to himself, didn't he?

E Secondly, if the prosecution are right that [Person A] was being used by Yasar Majid for sex, well, there's really one striking feature of this case. When they had sex on that one occasion, there was never a second time. He didn't go back having got her to comply with his evil wishes. He didn't seek her out and try his luck again, did he, having got there for a first time. And, members of the jury, you might think that that factor alone really tells you what Yasar Majid was all about. The reason that he didn't go back for a second time, ladies and gentlemen, was because for him in his mind this was a one-night-stand. This wasn't part of a cynical manipulation of [Person A] to use her and pass her on.

F Just think about things. You don't even have to think about Yasar Majid, but use your experience of life and of people. There they are. They're going out. He's got her into bed. They've had sex. Surely, having got to that stage with her, he'd go back for a second time or a third time or a fourth time until she sussed him out or he got bored, but no. Why wouldn't he, members of the jury, if that's what he was all about? She was there and she was

A available. Doesn't the fact, members of the jury, that he didn't go back for a second time show quite simply that he rejected her, that he didn't want her? Not just that he didn't want to go out with her, Yasar Majid didn't even want to use [Person A] for sex for a second time. That's how much he was not interested.

B Thirdly, members of the jury, another feature of this is that when she was being asked by me about this going out business, I asked her whether she wanted to carry on going out with Mr Majid and she said that they split up and it was a mutual decision. And she couldn't remember why they'd split up. Well, doesn't that tell you, members of the jury, that they were never going out in the first place. All this business about it being a mutual decision.

C So, members of the jury, I go back to my original submission to you: what is the prosecution case against Yasar Majid? One, two, three, four, all of the above. Because when you look at it and when you consider the evidence in his case, none of this stands up to any sort of scrutiny and even if, members of the jury, even if you've got to the stage where you thought that the prosecution had made you sure that she was not consenting, the prosecution still have to prove another ingredient of the offence that he didn't reasonably believe that she was consenting.

D So I take you back, members of the jury, to the prosecution case where she thought that she was on top of him. How on earth can the prosecution make you sure that he didn't have that belief and that it wasn't reasonable when she was on top of him having sex? In the real world, members of the jury, you might think that people don't have conversations about whether or not somebody is giving their consents when they're in the middle of a sexual activity. You take your cue, don't you, from responses and the other person's behaviour. The fact that she was on top of him, members of the jury, well, there couldn't have been a clearer green light, could there?

E So, members of the jury, I'll turn, if I may, briefly to the defence case. I made submissions to you at the beginning of my address about regret. Yasar Majid told you, didn't he, in evidence that he wished he'd never gone to [Sid's address]. You may think that Yasar Majid looks out of place in the dock and that he was equally out of place at [Sid's address].

G He's educated. He left Bradford. He went to live in Manchester. He returned to Bradford after a period of time in Pakistan and he was working you might think a fill-in job 16 hours a week at Next. He had his own circle of friends from Next that he used to go out with. He says his friendship with Sid at this time was newly formed. He went to Sid's place because it was somewhere to hang out and drink when he couldn't drink at home, a place he went to after hours. You might think, members of the jury, that what the evidence

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A shows is that [Sid's address] was a place that wasn't really Yasar Majid's usual hangout. He didn't really know Sid. He wasn't really friends with the other people that hung around there. You might think that there's very little that actually connects them all, that they have in common. So was he, knowing that about him, members of the jury, part of this group?

B For Yasar Majid, ladies and gentlemen, this was a one-night-stand. It was casual sex. Now you're not here to make a moral judgment about him. You might have your own strong views about casual sex. You might have your own moral compass that tells you that it's not on having sex with somebody younger than yourself or having sex on one occasions with no emotional ties or connection. But that isn't really what this case is about, members of the jury. It's about you deciding whether or not he is guilty of rape.

C And when you're making an assessment, ladies and gentlemen of the jury, about what Yasar Majid has had to say and the realities of his case, I'd ask you to bear in mind the evidence of [Person L] who you may well have thought was an impressive witness, not just in what she said and how she presented herself but the fact that she had travelled a long, long way from the other end of the country to tell you about one of her best friends. She became friends with him in 2011, not long after this period came to an end. They have lived together. They have worked together. She's been in his company countless times and what she describes is a very nice, loyal person, a good friend who puts himself out for other people. And that's what she thinks, members of the jury, having been his friend for eight years. So is that just all a charade that Mr Majid puts on for [Person L] or does that give you some insight into the real measure of this man?

D Mr Majid has been criticised by the prosecution for the fact that he gave no comment in his first interview with the police. Well, I'll deal with this very briefly, members of the jury. Mr Majid is an educated man who has not been in trouble with the police and he employed the services of a solicitor to represent him in that interview and he told you, as he told the police in his second interview, the reason why he went no comment was because he took his solicitor's advice. You may wonder how he can be criticised for that, but it's a matter for you how you treat that evidence. But, members of the jury, and it's a big but, once he did give an account, well, he couldn't have said much more, could he? His interviews were one of the more lengthy series of interviews that were presented to you and he set it out, didn't he, in detail. He said things that are shown to be correct.

E Significantly, members of the jury, you might think that he wasn't trying to conceal anything or cover anything up because he admitted things against his own interests. He repeated in evidence what he'd said in that interview so you, please, form your own

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A assessment of him and what type of person he is. He told you, members of the jury, and he told the police in interview that he started working at Next in 2009 and he described, didn't he, the first time that he met [Person A].

B If you remember, members of the jury, when [Person A] set out in her interview the first time that she met Yasar Majid, she didn't really give any detail about it. All she said was that it was the second time that she went to Sid's house. So just think about the situation that Mr Majid was in in that interview. The only details that the prosecution have, the police had about the circumstances in which she met Yasar were that she met him the second time she went to Sid's house.

C But look, look at the detail that Mr Majid goes into in his interview. It's there in full. He went there after a night out. He'd only been there a short time before the police came. He didn't even know that [Person A] was there. He volunteered that something was said by the police about a care home or something. Remember what I said about him volunteering things against his own interests. He said it all there. He was on notice, there was something about a care home. He told the police that he actually tried to explain the number to the police officers. Did it help him, members of the jury, to say, well, something was said about a care home? He could have kept quiet about that, couldn't he, if he was being deceitful.

D But the clear impression you might think, members of the jury, from those interviews and from the evidence was that he was doing his very best to set it out as it happened. He described, didn't he, how he was freaked out by the suggestion that there was somebody underage at the house, that he was weirded out by all of this. He didn't have to say that, did he? He didn't have to make any references to any of this or her age, but, members of the jury, what he says was when [Person A] returned to that house a short time later he thought there was no issue. And why would he?

E The police brought her back and it appeared to him that this was all sort of some misunderstanding. She came back. Two police officers brought her back. What would you think in those situations? Would you think if two police officers brought her back, everything was OK? Those alarm bells that had been ringing were silenced? [Person A] started talking. She told him some limited information about herself. Just a normal exchange between two people who'd met for the first time. He didn't play any of this down, did he? And the most, members of the jury, that the prosecution were able to do to try and undermine his account was this: was to pick up on a few slight differences in the words that he'd used to describe some of the circumstances and what had happened when the police turned up.

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A Well, you've got to decide whether that has any weight at all in your deliberations when he gave that full account. One of the other things that he said in interview and in evidence is that on the night when he did have sex with [Person A] was that he took two friends, [Person BBBB] and [Person CCCC], back to the house after a night out. You might think, members of the jury, that it really would be a strange thing to do if he was going to [Sid's address] for the purposes of having sex with [Person A] to take two of his friends there, one of whom was female. It's interesting, isn't it, that when [Person A] was cross-examined by me about the presence of the two friends, she said that that was a totally different night when the two friends came and then I reminded her that, on the last occasion at the last trial, she said that she couldn't remember.

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D But you might think, members of the jury, that it's significant that now [Person A] says, yes, there were two friends that he came with but that was another occasion. Another little detail, members of the jury, another signpost pointing you in the right direction. Yasar Majid has given his description of sex to you. He's said, hasn't he, that it was in the room, three of them, [Person CCCC] left. He came back into the room. She started getting undressed. They kissed. She pushed him onto the bed. They had sex and she was on top of him. That's what she said she thought had happened, that she'd had sex on top of him. And, after they had sex, they slept in the same bed. What happened afterwards?

E Well, you might think, members of the jury, that this level of detail has the ring of truth about it. The following Thursday he was out with his friends in Eccleshill and she turned up. Is that something that he's just made up? And he said, didn't he, again something that doesn't put himself in a particularly good light, that he didn't want to hang around with [Person A], that he didn't really want anything to do with her. He certainly didn't want to have sex with her again and he said, "I'm too good for you". Now when you heard that, members of the jury, you might have thought, well, that makes him sound really arrogant, he really likes himself, doesn't he?

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G Well, think about how it reflects on him really, members of the jury. Because knowing that that's how you could potentially react to that, him saying, "Well, I'm too good for you", he actually volunteered that to the police in his interview several times. You might think, members of the jury, that all of these things when he accepts something, says something that it's against his own interests really is the hallmarks of somebody who is giving a truthful account.

H So, members of the jury, finally, the prosecution bring this case. Yasar Majid does not have to establish his innocence. He doesn't have to establish that what he says about

A what happened on that night is the truth. What the defence submit is that, even on the basis of [Person A]'s evidence that she was consenting and you can't be sure that he didn't reasonably believe that she wasn't consenting. And that, members of the jury, in my submission to you, drives you and leads you to the inevitable and only conclusion in this case that Yasar Majid is not guilty. Thank you for your time.

B JUDGE DURHAM HALL: Thank you, Ms Batts. Mr Frieze.

MR FRIEZE: Ladies and gentlemen, I am acutely conscious that these few days, when you have to listen to 11 barristers making speeches to you, is an ordeal to at least some extent. We're all focused on our own little pockets of the case and what we're going to say to you. **C** But I know that just sitting and listening to people talking at you for hours on end isn't, I suspect, what most of you are used to. And partly because of that but also because I don't think it's helpful for me to spend a great deal of time going through issues which in Naveed Akhtar's case are reasonably easily and succinctly stated, I'm not going to spend a long time. I'm confident I will be finished well before half past 11 and I'm also reasonably confident, **D** although it's not in my gift, that you're going to get a coffee break after that. So I hope that's some small comfort.

A couple of general things first. I'm going to refer to people by their first names, not out of any disrespect but just because it's more economical. And I'm also, and I know this has been said to you before, going to dial down the emotional rhetoric, because these cases are difficult and emotional enough without barristers in the case adding to that and you'll know - when we started the case and you realised what it was about, you will immediately, I suspect, have thought to yourselves: This is the kind of case we've seen on telly and we've read about in the media. In fact, there's been a reference I think in the compensation **E** admissions to the Rotherham case. And you will know that there have been, and there are ongoing, a number of broadly similar cases in courts throughout the country and, more particularly, in the North of England, I'm afraid, where groups of men, because they are usually men, sit in the dock facing allegations like this based on a word which has become commonplace to describe cases like this but which carries with it a huge amount of baggage and that's obviously the word, "Grooming". **F**

And so any person who is in the dock facing trial in a case like this starts off, you may feel, in a considerable position of disadvantage. Whatever the strengths and weaknesses of their case, these cases have baggage and they attract a lot of comment. And obviously part of what we say to you and part of what his Honour will say to you is designed to counter that and to ensure that you approach it with the same cool objective analysis that most of us **G** **H**

A implore you to do. But, in fact, in this case you might think, having heard the evidence, and I appreciate [Person A1] gave evidence a few weeks ago now, that she really didn't need any assistance in that respect and that she, when you look back on her evidence, was a pretty effective advocate in her own cause.

B She in giving evidence made a number of general remarks in long expository answers about the overall circumstances that she was subjected to and it's trite for me to say that her view of what happened, and I'm thinking particularly at [Sid's address] because that's where I come at in terms of Naveed's case, but the whole situation at [Sid's address] was exploitative and she was the victim from start to finish of oppression and exploitation. That really was the first half of the prosecution's speech yesterday before the break about that. It didn't deal with individual cases or evidence. It was focused on the overall circumstances.

C I'm not being critical of her in saying that. Far from it. I suspect you took the view that she was articulate and intelligent and expressed what she said very effectively. But the problem about it is that things are never as simple as being all or nothing in life. I'm sure you will have come to realise that. And the situation may be, in some of the cases, it's a matter for you ultimately, a little bit more nuanced. And everybody has a different case. Mr Iqbal said to you yesterday that there isn't one trial here, there are 10 separate trials. And that, as well as being an elegant remark, is actually true.

D The evidence against everybody is different. They are alleged of them different things but, more importantly, their positions and circumstances are all different and you know - you've heard from Ms Batts who you may think obviously on behalf of Yara Majid is in a unique position. And the same applies to everybody to some extent. And I know, of course, having observed how patiently and carefully you've listened to the case that you won't lose sight of the fact that there may be distinctions and nuances here and, most importantly, the real point I'm trying to make is that [Person A1] is looking back at all this through the prism of her own views about what happened there and they may be well justified in a general sense.

E But it may be the case that she is to some extent rewriting certain parts of it to fit the overarching narrative that she is portraying. I'm not suggesting that saying that she's gone into the witness box and told you a pack of lies, because clearly you may take the view that a hot of what happened to her over the years that you've heard about was pretty wretched and, for all the fact that she's intelligent and so on, her life I suspect isn't one that you would have wished to have for yourselves or your own child. But it's a much more complex situation.

F I'm going to give you one example of why I suggest that there may be a degree in [Person

A A1]’s evidence of seeking to put a particular spin on what happened and it relates directly to Naveed’s case.

B Now you know that Naveed is charged with three counts of rape and sometime after Yasar Majid and [Person A1] had had sex together, she had sex with Naveed. She says she can remember having sex. She can clearly remember having sex with him twice and she thinks there was a third sexual encounter, but she can’t remember it very well. That’s why there are three counts. And she describes in her evidence in the video recorded interviews how it happened. They got flirty, they had sex together. And when she was questioned by me, I asked [Person A1], “Well, did you like Naveed?” And she said, “I liked him but I didn’t fancy him, I didn’t want to be going out with him. I just went along with it”, essentially was her account. “He told that he’d split up from his wife or he was having marital problems and he was nice to me but I didn’t fancy him”.

C And then you heard later in the case from her friend, [Person I1], [Person I] as she’s now known, and she said that [Person A1] said something very different to her at the time which was that she really fancied Nav and she wanted to go out with him but she thought that he was using her. And so there is within that little conflict in the evidence between those two witnesses I would suggest at least the possibility that some of what [Person A1] has said about what was happening has to be seen through the prism of her take on it with hindsight. Now coming to the evidence and what actually happened between them, I’m not going to go over evidence you’ve heard and rehearse a lot of detail. It’s difficult for us to know.

E Obviously, we’re absolutely focused on our own cases and you’re looking, you’re having to deal with lots of different things going on with lots of different people. So forgive me if I state what is obvious, but so far as Naveed is concerned we know as a fact that [Person A1] had had her daughter, [Person S]. [Person S] had sadly been taken from her, and that she ended up going to [Sid's address] sometime around beginning of 2010 is the evidence. So she was 16, in the middle of her 17th year. She’d been 16 in July, a year before, 2009 and she started going out with somebody called [Person FFF1]. You know about that. You know that she has sex with Yasar and she remembered that her encounters with Naveed - I’m not going to call it a relationship because I appreciate that’s a loaded term and it’s in issue, but that she remembered that her encounters with Naveed, which happened over the course of a few weeks, were happening at the time of Eid was her evidence.

G Now in her police interview, she thought that was the second Eid, which you know - I’m not going to ask you to look at them, but you’ve got some agreed facts which actually set out the dates of when Eid was in 2010 and this was September and November. And in her

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A police interview she thought it was the November one, but when she looked back on it in cross-examination she said it was more likely to be the September one given the timing because she had been going to [Sid's address] from January/February time and so it was a very long time further on in the year. But it demonstrates a number of things. The first is **B** that it's likely she was 17 when she had sex with Naveed - certainly some of it because that's her evidence. And when you look at the - to use Ms Batts's word - chronology, which is important to an extent in Naveed's case, although it's difficult to be sure there must have been a fair bit of time between her having sex with Yasar and her having sex with Naveed if it spanned even the September Eid, those few weeks in the summer. And she'd been going **C** there for a while. Now I appreciate, as far as Naveed's concerned, that is a bit of a double edged sword because the prosecution will say, well, by then she'd been there for months and she'd been groomed. She'd been given drink and drugs and made to feel part of a family and that Naveed took advantage of that. But what it surely does mean is that she wasn't passed **D** on from Yasar to Naveed in the way in which she says in her videos and in which the prosecution allege in their case to you both in opening and in conclusion. And [Person A1] described what happened with Naveed. She said they had exchanged messages. They were flirty and they had sex once on the settee downstairs, once in a bedroom upstairs. And she can remember it clearly.

E Now this is not a situation as far as Naveed is concerned by distinction where it is said by [Person A1] that anyone put any pressure on her to have sex or go out or do anything with Naveed. There is no evidence of that. Nobody says it. And her account is that he told her that he was having problems with his wife, they showed each other photos. Diverting from that for a second and just dealing with this head-on, the marital difficulties, you may be **F** sceptical about that. You may think, well, that's very convenient of him to say that. And it may be true, it may not be true. I'm not here to make unrealistic points and say there's clear evidence of that or it's likely to have been the case.

G You know that Sid gave evidence about it saying that he was having problems with his wife and he stayed at both Sid's and at another brother's house as well. [Person I1] mentioned it. [Person A1] mentioned it and so on. It may all have been rubbish. It may have been a ruse to get her into bed. But that isn't rape. And he may have been nice to her. So I'm perfectly prepared to say to you: treat that evidence with scepticism if you wish because it doesn't matter really whether he was or wasn't having marital difficulties. These are not counts of moral impropriety or being sleazy. These are counts of non-consensual sex. **H** And I

A appreciate this has been said before and I hope this is realistic. I'm not trying to put a gloss on it or make Naveed look good, but he would not be the first man, being a little sexist he would not be the first man to say insincere things to get a woman into bed, would he? And I'm not deliberately looking at Mr Moulson at this stage, I should say, he's just in my line of vision.

B JUDGE DURHAM HALL: Why are you looking at me, Mr Moulson?

MR FRIEZE: But, I'm sorry, it may not be a very attractive thing to say, but that really is Naveed's case. Nobody put any pressure on her. She said in cross-examination that he didn't do anything she didn't want. So you're left with having to decide whether you're sure that he had deliberately created conditions whereby he knew that this wasn't true consent or because she was so completely out of it on drink and drugs as to make her unable to consent. But she doesn't say that in this case. She remembers clearly two of the encounters.

C Now in her address to you yesterday, Ms Melly elided parts of the video interviews from [Person A1] with the evidence against Naveed about how she'd had three times as much as everybody else to drink and all this kind of stuff. She did not say that with specific reference to Naveed. She said that in other parts of the videos, but her accounts about Naveed did not reference specifically any actual or particular intake of drink and drugs. I'm not suggesting that she hadn't had a drink or taken cocaine. You'll remember she said that - I think she said to me in cross-examination, "I'm naturally very talkative", a proposition which I suspect you'll find quite easy to accept having seen her. And so she will have presented to Naveed as being friendly, flirty, willing, talkative, I would suggest, when you look at how it would have seemed from his point of view, which is part of the case or one of the ingredients that you would have to be sure about: was he or did he think she was consenting. It may not be a very attractive picture there, but that really is the height of it so far as he is concerned.

D And a great deal of the case against him seems to be, certainly in the way it was put to you by Ms Melly in her final address, was that, ah, but Naveed didn't give evidence before you. That was how she started with Naveed. He didn't give evidence before you and, therefore, you can hold that against him. You can take that as evidence in the case against him that [Person A1] was not consenting. And there's no doubt that you have the discretion. You are the judges and you can decide what you want and you can decide that his failure to give evidence is significant. But his case is unique in this respect, I would suggest. Maybe not unique, maybe Mr Dallas will make a similar point. But his case on the facts is the prosecution's case. We agree on behalf of Naveed Akhtar - I agree I should say - that the evidence that you've heard is both the case for and against him, he does not take issue

A through me with what you heard in combination from [Person A1] and [Person I]. His case is that [Person I] is being truthful and has no reason to lie when she said that [Person A1] told her she fancied Nav and wanted to have a proper relationship with him. And so it makes giving evidence completely pointless. The reason to give evidence for a defendant in a case **B** is to rebut facts and there are no facts that he needs to rebut here, I submit. And it would have added nothing to the case against him.

He said in his third interview, "I did not rape [Person A]". And you know that in his case, aside from that little difference between [Person A1] and [Person I2] - sorry, I'm calling her [Person I2] but [Person I3], if you like, in combination I appreciate but that may be **C** moderately confusing. But you know I'm talking about the same person. Apart from that modest difference, which is easy for you to resolve, I suspect, then their case is his case. And so there's nothing in that which adds or subtracts from the task that you have in this case. He may not have wanted a meaningful, long-term relationship with her and that I'm sure you will find surely proved. But it doesn't make it rape. He may have thought it's my lucky night; **D** it's here on a plate for me; she likes me; she's happy to have sex with me. But unattractive though that is, that is not rape.

And, in saying those things, I appreciate that I'm not being very complimentary to him, but I want to be realistic and make points that - so that when I do make points that you can perhaps say to yourselves, actually, there may be something in that. It's entirely up to **E** you, of course. And quite a lot's been made on that topic of the kind of relationship he had with her, namely drinking vodka, taking drugs, going to bed and having sex, not even going to bed in the case of the sofa. And Ms Melly, you remember, asked [Person A1] I think in re-examination, "Well, did these people invite you to the cinema? Did they take you out for **F** walks in the park?" She said no. There's no doubt that some relationships, perhaps the more middle class ones, at least involve all sorts of romantic expeditions to places, but that isn't necessarily everybody's experience of a relationship or a consensual sexual encounter even. Some, I'm afraid, with respect, involve having some drinks and going to bed with each other. That doesn't make it a non-consensual relationship because he didn't take her for a walk in **G** the park first. And so whilst that's, with the greatest respect, an obvious comment on the evidence that there weren't hearts and flowers involved necessarily, it is also a slightly superficial approach to charges of rape, with the greatest respect.

Now after - I look to be well within my time prediction, I'm delighted to say you're going to get an early coffee. After Naveed and [Person A1] had had sex, I've got to deal with **H** this because it's the way the prosecution have put their case, [Person A1] and Ms Melly both

A say she was passed around, passed from one to another in a series of pretend mini-monogamous relationships. You know that she had some kind of thing potentially with Parvaze, that's the prosecution's case. What [Person A1] said about that was that she was pissed off, that was her phrase, she was pissed off with Nav when he said he was going back to his wife and Parvaze said to her, "You can get back at Nav by going with me", that was her **B** evidence. And you know from [Person A1] that Nav, for whatever reason Nav and Parvaze didn't seem to get on with each other. That is the extent of the passing on that Naveed is alleged to have done i.e. nothing. [Person A1] was pissed off with him. Parvaze, she says, took advantage of her.

C That's hardly something that one can lay at the door of Naveed, is it? But the most that you can say is that he may have potentially exaggerated the extent of his marital difficulties. He may not have wanted a long-term relationship with her. But whatever else he did, he didn't put any pressure on her. Nobody else put any pressure on her as far as he was concerned and he didn't say or do anything to assist any other person to have any sexual **D** contact with [Person A1] - certainly not Parvaze or anybody. And nobody alleges that against him. And so, in conclusion, and I hope that the fact that I've been relatively brief you don't see as any disservice to his case, but it's a narrow one, in fact, and it's not a case - I don't need to spend any time arguing which bit of evidence you should prefer to any other bit, apart from that one thing I've mentioned because there's no disagreement.

E And when you look at Naveed's case, I would suggest, so far as he is concerned, that the net has been cast too widely. Not all men who sit in the dock in these cases are guilty and juries are able in most cases to sort out those issues and distinguish those people who have not been rightly found to have committed the offences they're accused of. And there are **F** defendants, and I would suggest he is certainly one of them, for whom the net has been cast too wide. But you might not like aspects of what happened there, that [Sid's address] is a whole picture of sordid behaviour in its overall vista, but that what happened between Naveed and [Person A1] is far from being proved to have been rape and that, in all those circumstances, that the only fair and safe verdicts in his case are ones of not guilty.

G JUDGE DURHAM HALL: Thank you very much, Mr Frieze. I agree with the invitation to have a break. To be fair, Mr Frieze wasn't saying anything we didn't discuss yesterday in terms of the order of speeches, but would you welcome a break? I'm sure you would, where the barristers are being very professional and efficient. It's 20 past 11. Let's come back at - have our 20 minutes and we'll come back at 20 to 12 and we'll move on to Mr Bell for **H** Parvaze Ahmed. Thank you, thank you very much.

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(The jury left court at 11.19)

JUDGE DURHAM HALL: Yes, thank you. No problems anybody? No, good. See you shortly.

(Short adjournment)

B

[REDACTED]

C

[REDACTED]

D

[REDACTED]

(The jury entered court at 11.43)

JUDGE DURHAM HALL: OK, thank you.

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MR BELL: If you please, your Honour, members of the jury, can I channel the best of Yorkshire spirit and get right to the point and invite you, if I may, to turn to divider 9 which deals with Parvaze Ahmed and, while you turn up that up, I'm going to give you three words which I'm going to invite you to make a note of because I submit to you those three words get to the heart of this case, get to the heart of this defence and answer every issue in the end that is important in respect of the indictment and the issues that he faces. And those three words are, "Yes means yes". "Yes means yes".

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Because, of course, you heard a lot of evidence in respect of a lot of defendants in relation to a lot of matters and when you retire to consider your verdict, you will want to know and have at the forefront of your minds, what is the position in relation to Parvaze Ahmed. And I submit to you at the outset that the simplicity and clarity of those three words are your baseline. Because let's be clear about this, members of the jury, no means no. No dispute about that. But if no means no, yes must mean yes.

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And the Crown's case, when you strip away all the sort of sociological analysis and the history and so on, when you get to the heart of it, what they are seeking to do, I suggest to you, in the end, is to somehow suggest that yes means no. That's not just an affront to

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A common-sense, it's against the weight of the evidence and in due course I will be focusing on the words of [Person A] herself. So I'm not putting words into her mouth. There's no lawyer tricks. There's no boxing her in to say something that she doesn't want to say. Those are, I submit those three words are the essence of what she ultimately is saying in respect of

B Parvaze Ahmed.

C Now throughout this trial, you spent time perhaps outside wondering what's going on, wondering if your time and your efforts are valued. Well, they are. And in due course you will retire to consider your verdicts. And you'll make, arguably, the most important decision that you can ever make in respect of another person. And I trust that that's a duty that you'll discharge with all the care, all the caution, all the sincerity that that demands. Because I submit that when you look at this case and look at the key and core issues as they relate to Parvaze Ahmed, there are powerful and compelling reasons to acquit him.

D But before commending or indeed suggesting that course of action to you, there are a number of principles that you should have at the forefront of your mind as you embark upon your deliberations and, in short, they are these and something you've heard before but I touch on them really because of their importance and their centrality to our system. Now as to roles, his Honour is the arbiter, the master if you will, of the law. So what he says about the law you must and will be guided by him. But you, members of the jury, are the sole custodians of fact and so you decide the innocence or otherwise of all of these defendants.

E Now the prosecution bring the case. They choose which charges they want to lay or indeed amend. But they must prove it so that you are sure and it's not enough to sort of guess at guilt or some sort of nod and a wink to guilt. They have to prove their case so that you are sure and nothing less than that will do. And it's not for you, with the greatest respect, members of the jury, to, as it were, bend the evidence to fit the Crown's case. Ask yourselves when considering, in particular, the words of [Person A], what is the natural, ordinary meaning of her words.

F And just as an aside, I suggest to you that when you do that, it becomes very very clear that Parvaze Ahmed is not guilty. There has been some reference already to the dangers of, as it were, importing from outside press reports or just a knowledge or discussion about these sorts of cases into this trial. Don't do that, members of the jury. I'm sure we can all trust you to focus on the evidence that you have heard, that you have seen, so that you reach the right decisions. And in reaching the right decisions, I urge you to be very careful about generalising, about, as it were, suggesting perhaps or inferring perhaps because someone is at **H** [Sid's address], oh, they must be guilty. No, members of the jury, you've got to look at the

A evidence as it relates to each defendant, as it were, and in respect of each count that you are considering. And that discipline, that focus is important and you must not, in my submission to you, be deflected by external and extraneous matters.

B Now one of the issues that you will consider in relation to Parvaze Ahmed is his attendance at [Sid's address] and you may be tempted because of the sort of general approach to the (inaudible) sometimes by the Crown to, as it were, assume that everything that happens at [Sid's address] relates to everyone that may have attended. And it's just not that simple. Specifically, in terms of attending [Sid's address], the defendant himself explained to you that he hardly went. Now, of course, that is his evidence and you may be suspicious and say, **C** well, he would say that, wouldn't he. But [Person A]'s evidence very clearly in the ABE was that he hardly ever came out. That's what she said in that first ABE towards the end. He hardly ever came out.

D Now applying your sort of analysis of that, its ordinary natural meaning is that he couldn't then have been there all the time. And, more to the point, really, is that you know that he at that time had his elderly parents in particular his father who was unwell and so he spent quite a lot of time caring for his father with MS. What's the significance of that, members of the jury? Well, what that means is that when you're looking at what the prosecution say happened at [Sid's address], you can't then assume that Parvaze Ahmed who **E** is there all the time saw all that happened et cetera and what you're doing, therefore, is you're looking, as it were, in a focused way at the facts, at the evidence as it relates to him and it's not just his words. It is corroborated and supported, I submit, by [Person A].

F Now moving specifically to some of the issues which I submit don't really take much time but I just want to be safe with you so that you're not distracted in relation to his case. Now there's no issue about age in respect of at the time when [Person A] met Parvaze Ahmed. She'd already had her child and she was, as it were, six months. So there's no question of her being under 16. In terms of the issue of what I'm going to call capacity or intoxication, some words of caution. It's important to draw a distinction between someone that is paralytic or, you know, blacking out or completely unable to function through drugs or **G** alcohol and someone that perhaps just isn't fit to drive. There are differences, and I'm sure that despite being in this rather airless courtroom, that you will, as it were, appreciate from your own experience of life in relation to a consumption of alcohol (inaudible) just being safe there, that there are stages and degrees. But, with that general observation in mind, then reflect on the specific evidence of [Person A] and particularly, for example, if one looks at **H** the first time that they were intimate, she gave evidence clearly before you, did she not, that

A she remembered the incident. It wasn't her sort of being incapacitated. Specifically in relation to her sort of state of mind and so on, she said that she thought it was a good idea.

B Now just pausing there for a moment, members of the jury, and just engaging an aspect of consent at the same time, if someone says about an action that they are doing that they thought it was a good idea, they are evaluating it, they are making a choice and, of course, to state the obvious, they are consenting. What other interpretation can you put on thinking that something is a good idea? And I hope, again I'm not straining the point but I just want to be safe with you in terms of the consideration of it. If she qualifies it and said, oh, I thought it was a bad idea, but I still went along, perhaps the Crown might have a point. **C** But there's no question of qualification. There's no question of hesitation. That is the clearest possible evidence of making a choice and affirming that in a positive way by saying I thought it was a good idea. And then, afterwards, in terms of that first time, and I'm not leaving out the fact that whether or not she was on top, she accepts she was on top and so on, she was active not passive, active not submissive. After they've been intimate, again her **D** words from the witness box to you, she felt positive about it.

E Now that's not to ignore anything else that was going on in her life, but when you're looking at the indictment in a disciplined way as you must, it is, is it not, an affront to common-sense to say that that interaction was not consensual. And it goes slightly deeper than that, members of the jury, in terms of this case because, of course, the sex will have happened really quickly in relation to Parvaze Ahmed and [Person A] and she then goes on to say that she then became attached to him. So it's not that she was attached to him or (inaudible) in some way and then had sex; it's the other way round, which completely undermines any notion in respect of Parvaze Ahmed that she was groomed for sex. They had **F** sex and then they had sex again.

G And put into that context, members of the jury, certain features of her actions and activities and just to identify one point, she accepted - and you may recall this - that she did herself sometimes call Parvaze Ahmed very late in the evening, maybe 3.00, maybe 4 o'clock. And to, as it were, borrow a reference from the Crown, perhaps there's a word for those sorts of calls but I won't use that vulgarity, the point, members of the jury, is this. Why would she be calling Parvaze Ahmed at that hour in the evening? Not to discuss politics, but the point here is that she's choosing, she's expressing a desire to see him, to be with him. That is, is it not, her affirming her consent again and again and again.

H And, again, you will recall from the cross-examination, I wasn't trying in any way to be hostile to her or again to try and get her to say something that she didn't naturally want to

A say. But she told you how she had missed Pav and that because she didn't really get to see
him, she would be disappointed. Now when you look at that in the round, how can that be a
construction of rape? Now I've dealt with that initial incident briefly. But there was a part of
B her ABE where she was - it's in ABE 9, to be precise, where she's being asked overall about
her sexual interaction with Parvaze Ahmed. And I want to stress to you at this stage the
necessity and importance of giving that consideration to Parvaze Ahmed as an individual and
not to be, as it were, confused with other defendants or inappropriately associated with other
activities.

C This is what she says about the sex and I'm going to read it verbatim, "Would you say
that the sex with Pav was consensual?" She nodded her head, "Yeah, I think so". Question,
"You would?" Answer, "Yeah". Question, "On every occasion?" Answer, "Yeah". And
she goes on to say, "Yes". Again, "I liked it". Now I began this address to you by saying
that yes means yes. Throughout this case but specifically in this instance, I suggest to you,
D it's almost as if you can't count the number of ways in which she's saying yes. And she's
saying it in respect of everything that passed between them. There is no qualification. There
is no deviation. There is no hesitation. It may be the questioner was, in fact, surprised and so
there's confirmation. In fact, there is justification, isn't there.

E She says it was consensual because she liked it. Now how do you turn that yes into a
no? How do you turn those words, her words, from an experienced officer who is simply
getting her to talk about her experiences and her feelings? And that is what she volunteers in
that ABE at a time when she's had some perspective and some time to reflect. And so even
at that stage looking back, she describes what she was doing, feeling and thinking. And I
submit to you that any other way of constructing that, any other way of trying to suggest that
F somehow that yes means no is against the weight of the evidence. It is against what she
herself has said about her actions and her choices. And, of course, I could go into a deep,
philosophical analysis about free will, agency, control and the like. But it's not necessary, is
it, because it is clear, it is clear in the words that I have read. It is clear in the words that she
herself has spoken.

G But, members of the jury, it goes even deeper than that because you may recall when
Ms Kelly was asking [Person A] some questions on behalf of her client, and you know the
context of effectively there were times as the Crown essentially put their case, where there's
an expectation, she's hoping to see Pav but she doesn't meet Pav, she meets Billy. It's
nothing to do with Pav, by the way, that's not the focus of my point. My point is this. She
H said in a completely volunteered way, that at the time she loved Pav. That's her words.

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Now, of course, we can all debate the meaning of love, what's the meaning of love and so on. For the purposes of your task, you've got to consider the indictment and where a person says that they loved someone, that they consented to the sexual activity (inaudible), where is there (inaudible) for rape? It's just not there, is it? Now I'm not ignoring the other things that the Crown say and I'm going to deal with those issues head-on. But I say to you at this stage that all the points that the Crown make, all of them, or indeed any of them, do not undermine the cogency, the clarity, the power of [Person A]'s words herself about the indictment. Let's then just turn to consider some of the other issues that have arisen in the case.

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Now, of course, there is a dispute between the Crown in respect of exactly how the relationship started. We know that there was flirting between [Person A] and Pav. We know, and they obviously had a bit of - there was some chemistry between them. These are her acceptance of that interaction. We know that she felt positive towards him. The suggestion is that in some way he used her annoyance at Naveed as a ruse. Well, that's not accepted.

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But, members of the jury, I say again that whatever the Crown say about that interaction, that first interaction, it still doesn't in any way undermine the fact that it was consensual.

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There is an issue about, let's take alcohol first and then we'll deal with drugs. Just looking at this issue for a minute, the Crown say effectively that somehow the use of alcohol as again a way of manipulating her and getting her to do things and so on, but again I come back to my central point, members of the jury, yes means yes, and whether she's had a bit to drink or whether she's had some coke, she is still able to say yes and just to deal with both of those issues of alcohol and drugs together and to reference it to her words about it, I want to read a portion again from her ABE, it's video 16. And she's asked this, "OK, if you'd not been drunk or high, would you have had sex with Pav?" And she says, "Oh, I don't know. I think so".

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So I submit to you that she is saying, in the clearest possible terms there, that irrespective of the issue of alcohol, irrespective of the issue of cocaine, she would still have been intimate with him. I submit that's a legitimate interpretation of her words. But it's also, does it not, it's also a sensible analysis of her actions, of how she describes it. If she is genuinely, as it were, in love, if she is, you know, in a state of mind where she wants to see Pav, she wants to be with Pav, she wants to be intimate with Pav, she's ringing him up at 3.00, 4 o'clock in the morning, the position is that she wants inevitably to be intimate with him. And that's really the point in the end, isn't it.

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You heard about Pav's interview and in that interview it's worth noting, isn't it, that he didn't have legal representation. And you know about his previous convictions for drugs and surely he would know if he needed a solicitor he could have got one. But his evidence on that point is very clear and I submit in the end quite powerful and persuasive, because he says he hadn't done anything wrong. "She were a good lass" I think is perhaps a colloquialism that you'll all understand and, as far as he was concerned, it was consensual. And he was clear and credible and consistent on that issue of consent. And, of course, you'll appreciate and you'll understand that it must be very difficult to give evidence in front of strangers about intimate details. And you may say, well, perhaps he was a bit too coy about oral sex.

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Perhaps he should have been a bit more confident and clear to talk about those sorts of intimate matters.

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But just for a moment, members of the jury, just think about how awkward that might feel, what words to use, what - just the vulnerability of that. I submit to you that you must really judge him by the same fair standards as any other witness that you've heard from and just take into account, as it were, the strain, the concern that having been with a young lady who has said yes to sex with him in so many ways that he is on trial for rape. The prosecution tried to suggest in some way that he was an angry man. But, members of the jury, just reflect on his situation with care because I submit that he was a dignified witness, concerned about being wrongly convicted. And he did his best to give his evidence before you and defend his position as any man wrongly accused would do.

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There is a suggestion that because of what I will call the background vulnerability of [Person A], that that background vulnerability means that she, if you like, almost just simply never would have had the ability or capacity to consent to sex with anybody. That's almost the feel or the line that the Crown are taking and you just know that that's against the weight of the evidence but not a fair analysis of the evidence. In giving evidence to you, Parvaze Ahmed said that he was aware that she had a child, that he was aware the child wasn't living with her and so on and there were some of these issues, but he didn't have access to her social services file and, against that background, he was presented with someone who was confident, that was bubbly, that was forward, that was quick, that was witty, that was intelligent, that was engaging, that was going to get her apartment sorted out, seemed to be going places and so on. And I submit to you that you have to be very careful about extrapolating all the detail that you know about [Person A]'s past and somehow suggesting that he is aware of all of that. That's just not the reality and that's a very artificial approach

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to this case.

A The Crown suggest that there was some sort of deliberate attempt by Parvaze Ahmed to, as it were, pass [Person A1] on to his nephew. But when you look at what, in fact, happened, that just simply isn't borne out. It is a fact that Parvaze Ahmed never physically introduced his nephews to [Person A1]. It is a fact that she met them coincidentally and
B independently of him. And I submit in that context, given those facts, it would be wrong in some way to hold that against him, something that happened without his involvement. But, in any event, members of the jury, we're still a long way away, I suggest, from the heart of the issues of this indictment. In the end, members of the jury, you can be in three states of mind about Parvaze Ahmed. You can, despite everything that I have said, be sure of his guilt
C and, in those circumstances, it would be your solemn duty to convict him. If that's what you really think, that's what you must do.

But you may find yourself in the opposite frame of mind. You may be sure of his innocence and, of course, in those circumstances, it will be your pleasure or indeed his to acquit. But you may find yourself in an in-between frame of mind. You may find yourself
D troubled by the activities at [Sid's address] but also troubled by the words that she has said again and again that she said, yes, it was consensual, that she said, yes, sex - that she agreed with it in essence. You may be concerned about the phone calls that she was making. You may be concerned about the fact that she described Parvaze Ahmed before you in this trial in this courtroom as someone that she loved.

E And if you find yourself troubled, concerned, questions that the Crown in the end can't answer, if you are in that in-between frame of mind then it will be your duty, I suggest, and submit, to acquit him. I don't ask for any special favours, any special consideration. I simply ask that each and every one of you are true to the oath and affirmation that you took at
F the beginning of this case to try the defendant faithfully and give a true verdict according to the evidence. If you are evidence led, if you are fact focused, if you appreciate the meaning of ordinary language that yes means yes, then I submit to you that you will find the defendant not guilty.

G JUDGE DURHAM HALL: Thank you, Mr Bell. Thank you, Ms Kelly. Please don't worry if you haven't finished by five to one, we will come back to you.

MS KELLY: Thank you very much.

JUDGE DURHAM HALL: But we'll see.

H MS KELLY: Well, members of the jury, you heard his Honour, we're approaching lunch and I will be very mindful of rumbling stomachs - especially my own, but I represent Izar Hussain and [Person A] has made some very serious allegations against him. He is on counts

A 17 through to 20 on the indictment, do you have it in front of you? Count 17 representing rape after he's threatened her with The Doctor. Count 18, rape at his family home, a count not detailed in her evidence. Count 19, [Billy Jo Jo's address] after the doctor, another count you don't have any detail of. And, finally, the attempted rape, count 20 at his family home.

B So three rapes and one final alleged attempted rape.

C And before I come on to the evidence as it relates to those specific counts that he faces, there are just some preliminary observations that I wish to make, partly arising out of comments the prosecution made in their final address to you. So, to begin with, and it's not the first time you've heard this, and it won't be the last, but it isn't for him, Izar Hussain, to prove his innocence. You know that. And why am I repeating something you've already been told? Because specifically in this case the prosecution asks in strong terms in their final address where's [Person Q]? Why hadn't [Person Q] been called to tell you all about these activities at [Billy Jo Jo's address]? To tell you all about that final alleged attempted rape.

D And in posing that question to you, you can be forgiven for thinking that in some way it is the duty of Izar Hussain to call witnesses in his own defence. And you'd be wrong to think that because he didn't even have to give evidence himself. And he certainly did not have to call any witnesses on his own behalf because he doesn't have to prove his innocence, the prosecution must prove his guilt. And thank goodness the defence has no burden of calling witnesses in their own defence. Could you imagine the terror of being falsely accused of rape? And your jury's verdict being dependent on whether or not you could rely on the evidence of a witness with whom you had had a total relationship breakdown and who it would appear on the evidence that you've heard has had his own mental health issues to contend with over the years.

E Now isn't it strange, say the prosecution, that Izar Hussain told you he hadn't seen him for years and his mother said the same. Yet his brother, [Person HHHH] saw him just the other day. [Person HHHH] is not on trial here for raping [Person A]. What his relationship is like with [Person Q] is of no relevance to Izar Hussain. And, by the way, even [Person HHHH] told you how he seeks to avoid his brother, [Person Q], because of the issues in his life. Izar Hussain is the one on trial and it is for the prosecution to prove his guilt by calling the evidence it chooses to call rather than the other way round. And not having to prove his innocence also means this. He doesn't have to provide a motive as to why [Person A] has told lies about him. In their final address to you, the prosecution commented that it's Izar Hussain's case that [Person A] has fabricated her account about him because they didn't

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A get on and that then he'd embellished that further by adding in some threats he heard per se way back then saying that she was going to get him back.

B And, whilst he did in his evidence speak about how they didn't get on, that she levelled these threats at him, he did not say, did he, that he knew that was the reason why she was telling lies because, in all fairness, how can he say that? As to the answer to that question, he simply didn't know. And, as tempting as it may be to look towards Izar Hussain, and wait for him to provide you with an answer as to why she would lie about him, it's the wrong approach. It's asking him effectively to prove his innocence. It's not his burden and yet again, if it was, how unfair would it be because people lie. People lie for all sorts of reasons. And it may be obvious to a victim of another's lies why that person is saying the same, but to another victim of lies they might not have a clue, not a clue. And people do make false sexual allegations.

C A potential reason for her lying has been explored with [Person A]. Izar Hussain recalls they didn't get on. He was rude. He was abusive to her, telling her to get back to her daughter. Could that be a reason? Hitting her where it really hurts in circumstances where the background was that child had been taken away from her, adopted? Something which still, understandably (inaudible) you might think still hurts. But whilst it has been explored on his behalf as a potential reason for her lying about it, he cannot know that. And it's not the defence case that it must be for that reason. There need not be any reason. Some people just lie. And even if you conclude, well, there's no reason at all here really for her to lie about him about this, but that doesn't equate to guilt because if it did there'd be no point in you being here to examine carefully and meticulously this evidence relating to these counts.

D And given the way in which her complaint about him has evolved, how it was only in September of 2014 in that first video recorded interview that the suggestion of actual violent rapes came out rather than an attempted rape, he could easily say, couldn't he, well, she's lying about that attempted rape, don't know why. But the fact she's now added to that false complaint that I have raped her violently three times just shows she's in it for the money because she's ramped it up once she got a sniff of that six figure sum. But he has chosen not to say that. He just doesn't know why she's lying. So when you consider his honesty, his credibility on oath, in respect of this aspect, when he had an opportunity, if that's what he's about, to adopt arguments that have been put forward by others that she's only it for the money, but he hasn't.

E How does that help you with whether or not he really is just trying to wriggle out of this saying anything he can to avoid the consequences rather than just telling him, in fact,

A what he recalls of their interaction way back then? The fact is it is not for him to say what has motivated her. You must be sure of her evidence. And she is the only witness in this case called by the prosecution to say he is guilty of raping her three times and attempting to rape her once. And I'm not saying that you cannot convict him on the words of one witness
B alone because, of course, you can if you're sure of her evidence. But it doesn't alter the fact that there is only one witness here to say that he's guilty and you have to be sure that she is a truthful, reliable and accurate witness before you can say you're sure of these counts that he faces and say that he is guilty of them.

C So I'll come on now to aspects of the evidence that I rely upon in arguing that the prosecution has not proved these cases against Izar Hussain. Because is her memory of the time she spent in any of Izar Hussain's addresses even reliable? She told you she was mashed out of her head on drink and on drugs mashed out of her head whenever these incidents happen. And given that physical state that she has described and the starting point,
D can you be satisfied even that her recollection is accurate and reliable in relation to any alleged experience she had at any of his addresses?

E Before moving on to other topics, which I argue on his behalf cast doubt on her credibility, I want to address you on the substance of the evidence for counts 18 and 19, the counts for which there is no detail. So, in respect of count 19 at [Billy Jo Jo's address], she told the police, "It happened more than once, the way it were like but I can only remember, do you know, remember the actual details of one like The Doctor had been there and Billy had been saying, oh, I can't remember how much money where he said something like 300 or 600". And whilst she told the police that she had been raped at his parents' home before the final alleged rape, she was unable again to provide the police with any details of the
F circumstances of that. So, from the outset, those two counts, you have been provided with no detail because she told the police that she couldn't remember the detail. And that, I say on behalf of Izar Hussain, is not a good starting point for the prosecution.

G When she was cross-examined by me in relation to count 19, the unaccounted (inaudible), and whether or not she was, in fact, raped on that other occasion, she said she wasn't sure whether that other occasion was full sex. She couldn't say whether it was full sex or some other form of sexual activity, the nature of which she couldn't describe i.e. possibly not vaginal intercourse. And that's her own account in cross-examination. Count 19, you have to be sure there was penile penetration of her vagina against her will and in cross-examination she was not sure, so how could you be? And, in so far as count 18 is concerned,
H her parents' home, the other occasion of alleged rape for which there is no detail, again in

A cross-examination when I explored that with her she could not confirm that vaginal sex took place. She couldn't confirm that took place over some other form of sexual activity.

So if she wasn't sure, how can you be? So by the time, of course, it came to her being re-examined by the prosecution, she had, I say on Izar Hussain's behalf, changed her tune.

B She reverted to saying there was full sex once more at both of those addresses, but what she said was that she was pretty sure there had been full sex because he never asked for anything else. Now even if that was her only version of these two counts, that she was pretty sure there was full sex, it would seem, if you accept it, that she's arrived at that point in her final analysis by a process of elimination rather than any genuine memory. However, when you
C consider the whole of her evidence on this, does her vacillating over whether or not there was full sex at all not cause you any concern when you consider the prosecution say the evidence of vaginal rape on those two counts is good enough?

D You must, I urge you on behalf of Izar Hussain, avoid and guard against a broad-brush approach when you're considering the evidence in the case against Izar Hussain, a broad-brush approach which is a theme in some respects of the prosecution case. You have to be fair. Each count and each defendant requires separate consideration on the evidence. Moving on, does her account on the whole in relation to all of these counts even ring true? Her account is, yeah, he was a bit of a weirdo at [Sid's address] but not so troublesome that
E she was put off going to [Billy Jo Jo's address], his home, initially. She said he duped her into going by either pretending to be Pav or telling her that Pav was going to be there.

F But then to her horror, it would seem, her having been duped to those premises, she met Psycho Billy Jo-Jo. Psycho Billy Jo-Jo who was a violent rapist. Psycho Billy Jo-Jo, it's clear, isn't it, that from her evidence if you accept it, she had no confusion about his character. She was able to say, she said back then, not in hindsight as she claims with other defendants such as Nav or Sid or whoever else you're considering, but back then she saw him, she said, for what he was: a violent rapist. So even if you give her the benefit of the doubt that she'd been fooled by him at first to attend his home, don't alarm bells start ringing when she says that once he became Psycho Billy Jo-Jo instead of the weirdo she'd known
G before at [Sid's address], she kept going back to his house? She kept going back to his house even after he raped her and she kept going back after he raped her again and again. Not just rape with no extra features, this was violent, this was aggressive, this was scary and she just kept going back.

H You recall she told you that first time he was just trying something on before the Doctor incident and being aggressive, she said she had the presence of mind to call the 606

A number, she says, for the police to come and collect her but they didn't, so she ended up spending the night there out on the streets. So having clearly understood, she says, what he was about and then spent the night on the streets, but what do the prosecution ask you now to be sure she did thereafter?

B She chose to return to his address where she could have guaranteed he would have been because it was his. She chose to return there even after he raped her and she chose to attend his family home in [Location F] where, once again, she could guarantee her rapist's presence. Why keep going back? Well, he kept telling me that Pav was going to be there and I was desperate to see him. She didn't need to meet Pav at these locations at all. Now, of course, it may well be said that, well, you can't make assumptions about how a genuine rape victim would react in these circumstances and about whether or not she would be likely to return to any address where she knew her rapist would be.

C And, of course, you must avoid applying stereotypes to your assessment of her account of her reactions, but you do have evidence of how she would behave and how she would react back then. You do have available evidence against which you can weigh in the truthfulness of her account about why she said she returned to this address and put it into context. She was someone, wasn't she, back then who knew her own mind and, according to her, capable of taking herself away from an alleged dangerous situation because she called the police that time and spent the night on the streets. And can't you put as well her intention that she says she had no choice but to stay (inaudible) in the context of the evidence that you've heard that she would habitually call her grandmother to come and collect her in the early hours of the morning?

D She wasn't shying away from calling taxis to take her back to her accommodation and leaving the bill for the staff to pay. How do you reconcile her evidence of having the presence of mind to avoid him after the last alleged attempted rape with her account that she repeatedly went back being raped before then? So there is evidence, I say, on Izar Hussain's behalf, from her own contradictory accounts and from others that when it suited her she was resourceful and she was able to take herself away from perceived dangerous situations.

E There is, of course, an alternative sensible logical explanation for why she kept going back to Izar Hussain's addresses. Because she had nothing to fear. Because he hadn't raped her at all or in fact. Does her account ring true? I say on Izar Hussain's behalf, no.

F What about her complaints about him or absence of complaints? When did this offending against her happen because you will have noted that that's changed too on her account. To the police she said, "Well, this all started and finished just before I turned 17",

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A so July 2010, which you know she accepted, she confirmed in the last trial that by the time it came to this trial her tune had changed, “Well, I think it was perhaps later on that year, maybe November 2010 time”. Whatever you say or whichever way you see that part of her account, if she was being raped violently repeatedly, whether it was in the middle to the latter part of 2010, why didn’t she report him to the police?

B Again, you will be cautioned about making any assumptions as to about how or when a genuine rape victim would complain. But you are entitled to set that rule in a sensible way against evidence that’s available to you about how she did react apparently in similar circumstances at that relevant time. And you have within the agreed facts dates on complaints she was making to the police about rape in July of 2010, being stalked in October of that year and later on complaining of threats being made to her boyfriend or by her boyfriend. Despite that, despite the fact she had apparently at this relevant time the wherewithal to recognise rape when she saw it, when she experienced it, and report it to the police, not a single complaint of rape to the police about Izar Hussain.

C The prosecution argue, of course, well, as far as that last attempted rape was concerned, she did complain to somebody about this long ago, [Person K]. You heard from her. Did she complain about that straight away to [Person K]? Are you sure about that? She told you, “I went from his house with his brother to the hotel and I told her that night”. It’s not what [Person K] says. It wasn’t that night. She recalls it being said maybe a few days later but, even then, complaining to [Person K] about this attempted rape on this alleged final occasion, curiously you might think those two having become such good friends thereafter and quickly thereafter no detail given to [Person K] about him actually having succeeded in violently raping her three times before that final night when she made good her escape.

D Are you sure she really complained to [Person K] way back then? Is it not possible that something was said later after that visit by the police in July of 2013 when you know after which they split up? The prosecution say, well, it’s not just her; [Person B], she raised concerns with [Person B] about what he was doing to her. There’s to complaint of rape to [Person B] by [Person A]. The detail [Person B] gave is of an alleged incident reported to her when he’d made her watch animal porn and then smashed her face with some bath taps. Does that accord with anything that you’ve heard, having her face smashed up with some bath taps? Or is it perhaps an indication of an inconsistent account, the hallmark of lying (inaudible)? Are you even sure that she did complain at all to [Person B] way back then, these two having stayed in touch in the years after and beyond the visit by the police in 2013?

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But still on the subject of complaints, she told you she reported him to Barnardos. She gave them his name, watched the lady write down the name of this she'd given her in a meeting with her. Incredibly, that name has not found its way to those Barnardos' records. You have that agreed fact in the bundle of documents. And that's set it in a context where

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she had been referred to Barnardos because of the apparent risks she was taking with her lifestyle. Is it there just because the lady didn't make a careful note and it just was never recorded properly, [Person A] being let down again? Or is it not there because she didn't complain about him to Barnardos, because there was nothing to complain about?

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Why is it that when Gatenby and Taylor, police officers, came to visit her in July 2013 the only complaint reported by her to them was an attempted rape not three successful violent ones (inaudible)? Why is it when she attended upon her solicitor the following September before her first police interview that she only described the alleged final incident? And, even then, in the draft statement the word, "Assault" is written rather than sexual assault. Now, of course, she doesn't accept that she described that final alleged incident to Beverly Mercer in any other way than a sexual assault, but this was a draft statement she revealed she was familiar with and had made corrections with (inaudible).

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Of course, when dealing with complaints, you mustn't apply stereotypes to your assessment of how and when you would expect her to complain about actually being raped. Don't forget she was complaining of rapes around this relevant time. And why stop from complaining about the actual rapes to Gatenby and Taylor or [Person K] or [REDACTED]? Is it a sensible and logical reason for the omission of that very serious set of allegations about three actual rapes to those people, isn't it a sensible and logical reason for that omission that they just didn't happen? Even if you accept she told anyone anything back then about Izar Hussain sexually offending against her, it's an obvious point that I make now but if she was lying about it in the first place, a lie doesn't become a truth through the momentum of repetition.

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So what about the final attempted rape she's described, has she always told that story the same way? In her first interview of September of 2014, she described the intervention by the brother in this way. That she screamed. "His older brother, the nice one, heard and ran into the room. He saw what Billy were doing and he grabbed Billy and punched him and knocked one of Billy's gold teeth out and shouted to me get downstairs, get in my car, outside, hurry up. And I ran downstairs and Billy's mum was stood at the bottom of the stairs and I ran past her and I went out and I got in his car". January 2016 now, her account, "He come running in. He shouted proper loud. He said, 'Get the fuck off her now' and as soon as

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A the door opened and then Billy saw it were him, he jumped away from me and stood up, his brother started saying, ‘What the fuck are you doing?’ I were just trying to get my pants up. I was shaking and stuff and his brother was saying, ‘What the fuck you playing at?’”

B And she goes on to say she’s told to get down the stairs and his brother came in the car afterwards. She noted blood on his knuckles, asked him what had happened and she was told by him that he just fucking knocked his gold tooth out. Now could it be that it was just an innocent misrepresentation at first giving the impression that she had actually seen that fight between him and his brother, seen him punch his brother and knock his gold tooth out? Or could it be that she had actually embellished her account at first dishonestly and thought **C** better of it at a later date when she perhaps thought, well, maybe the fact that his gold tooth had been knocked out is something that could be checked? And it has been. You’ve got in the agreed facts his full NHS dental records. No tooth damage, repair to any tooth, let alone a gold one, recorded over this relevant period of time.

D Is this a change of account and, therefore, I say on his behalf because it is based on a lie? The prosecution say to you, well, this account, the attempted rape, has a ring of truth to it because she’s introduced potential witnesses who could expose her lies if she’s not telling the truth. And the prosecution say that to you as though human beings are partial to telling lies and getting caught by adding an extra detail that can be checked out. So, just dealing **E** with this, you recall how within that narrative she described seeing his mum on the way out of the house. And when I asked her were you sure it was his mum that you saw on the way out of the house, she said, “Well, the woman I assumed was his mum”. Was that her being honest when she said, “Well, I assumed it was his mum”? Or was that shift from saying it was his mum she saw to saying she assumed it was his mum she saw, was that shift an **F** example of her hedging her bets? Because this sort of detail can be checked.

And his mum, you know, gave evidence, saw no such thing. [Person A], you might have thought having heard from her, she’s not. Pretty (inaudible), you might have thought, anticipating where lines in cross-examination were going. Is there evidence to support her account that he attempted to rape her at his parents’ home? No. But there is evidence, I say **G** on his behalf, to contradict it. The police in trying to investigate this obviously were trying to find her alleged rescuer. You know they went to see [Person HHHH], his oldest brother, to see if he had been involved. Photographs of her at the relevant time to see if this was a young woman that he recognised. No, it’s not. So you do not have any supporting evidence called on behalf of the prosecution to support her account. You’ve heard from his mother who **H**

A apparently was present when this awful incident was taking place. She must have heard the screaming of [Person A] when it was taking place before coming to see what was happening.

B Well, his mother told you she saw no such thing. She does not support the prosecution case. Her evidence undermines it. And what happens then when the defence do call witnesses as in this case to undermine something that [Person A] has told you? What's the answer? Well, they would say that, wouldn't they, because the same family, they're being loyal. Do you think his mother came here and lied on oath? Do you think she didn't take that oath seriously? I ask you on behalf of Izar Hussain when you consider this to be fair, to be objective and be reasonable. Because if this part of her evidence is undermined, if the mother said this didn't happen, undermined or part of that account and it can be checked out, how does it affect the other counts, the evidence in relation to the other counts the prosecution ask you to be sure of?

C Doesn't it - when you couple it to other points raised about the credibility of the circumstances of these alleged rapes, the fact that she hadn't mentioned being violently raped before, doesn't it taint her whole account when there is something that can be checked out that undermines some of it? But, of course, it is not only the prosecution evidence that you consider in this case. You consider Izar Hussain's evidence, the witnesses I have already mentioned who have been called on his behalf. And when you assess his evidence, you'll, of course, bear in mind that the giving evidence in your own defence in any trial, I suppose, but certainly in a case as serious as this, and be subject to extensive questioning by the prosecution, it can't be easy, it cannot be easy.

D The prosecution criticised him, didn't they, when they were asking him questions about dodging them indicating that that was him just being dishonest on oath. But you'll have to consider whether or not that's a fair assessment of his evidence or whether, in fact, on some occasions Izar Hussain just perhaps wasn't picking up the subtle undertones in questions being asked of him in cross-examination. And he couldn't answer all the questions. How on earth could you expect him to answer all the questions when you are dealing with something that allegedly happened years ago?

E If he could recall everything to a tee, you'd probably be far more suspicious about the evidence that he gave. He hasn't, has he, in giving his evidence, tried to paint himself as an angel? He is not saying, look, I behaved like a perfect gentleman with [Person A] all those years ago. He's not saying he doesn't drink and he's not saying he isn't partial to a spliff. Even now he is not saying, is he, that he leads a life of sobriety? And in telling you those things on oath, it must at least register with him that they are features of his lifestyle and

A behaviour that may well make you see him in a bad light, but the fact he hasn't hidden that aspect of himself from you demonstrates, doesn't it, that he is being frank as you would expect him to be.

B And in giving his account he doesn't need to accept that he used the house mobile phone at all. He doesn't need to accept that. He could deny it altogether. But why admit that he would use the house phone at all, which is now he has done live, evidence the prosecution can't possibly check and it gives them in admitting his use of house phone occasionally, it gives the prosecution the opportunity to say: Well, there you go, he did use it; so, yes, [Person A]'s right when she says that he was contacting her on mobile telephone. He's admitting using the house phone occasionally in circumstances where it could be used against him to his disadvantage but that is what you expect if he was being honest with you.

C He was asked extensively about [Person V2]. Do you know [Person V2]? He's not hidden the fact that he was friends with her and he's not hidden the fact that he called her number. He even left his name and number at the home, so wasn't, it would seem, hiding his identity or how he could even be detected at the time. He was cross-examined about his association with her. But, in reality, what on earth's that got to do with whether or not he raped [Person A] three times and attempted to rape her once?

D He's aged 32 and what do you know about him? When he was 15 he walked into a police station produced some drugs and admitted he was involved in drug dealing. He admitted he had been concerned with very serious offences and pleaded guilty to those offences at court. The fact that he has previous convictions for drug dealing when he was 15 mean that he must have been drug dealing in 2010 like [Person A] said that he was. But the detail of those convictions, what does it, in fact, tell you about him? He was the one who walked into the police station and told them what he had been doing. He didn't dodge responsibility and have a trial and pleaded guilty.

E So his approach was to admit it, not deny it and ride it out. And even if you think, looking at those previous convictions, well, yes, that can assist me with whether or not he was still in the habit of dealing drugs in 2010 like [Person A] had said he was. How, in all fairness, can you then make the giant leap with being a drug dealer to being a rapist? You can't, can you? But having got that list of his previous convictions in the agreed facts, what is clear is this. None of them are for sexual offending. So his previous convictions might demonstrate that he does drugs aged 15, likes a bit of cannabis, but not that he is a sex offender these events are something that he has denied in interview.

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A He had a prepared statement read out at the start of that interview and, thereafter, made no comment, he told you, on advice from that solicitor and that he had that advice from a solicitor is obvious, isn't it, because even at the interview the solicitor is saying, "Remember my advice to make no comment". Should he be criticised for making no
B comment upon the advice of his solicitor after a prepared statement has been read out? Should he be criticised for giving the impression that he didn't know her back then? Just think about that. If he's right or he might be right about the level of their interaction back then, it may well be that to him and his mind, it was of such little significance by the time of the interviews that he wasn't able to readily bring to mind the ins and outs of their contact
C during the course of the interviews.

Does it mean that he's lying about his contact with her now? Even if he had said to the police what he's told you on oath about the level of their contact with each other and their interactions, do you think then that the police would or the prosecution would then just accept what he'd said to the police when it came to this trial? Or do you think that all that that
D would have happened is, as what has happened to other defendants who have given accounts in their interviews, is that the prosecution would just have accused him of telling lies in his interview, because that is the approach of the prosecution to anything said by anyone who says something different and contradictory to [Person A].

The prosecution say if it is true that this girl was a nuisance and had fired a warning shot to him years before that she was going to get him back, that would be the first thing that he would have said in his interview. Well, maybe, if he'd remembered it, if it had happened yesterday and not years before; if he had appreciated the significance of it back then, not later and maybe not. Maybe some people when they are falsely accused have the luxury of a great
E memory of conversations that took place years ago. Maybe some people who are falsely accused have the luxury of being able to speak for themselves eloquently in their police
F interview rather than getting bamboozled by the shock and effect of it all. And maybe some people don't need solicitors to represent their interests in interview in what must be an extremely stressful situation.

But Izar Hussain did have a solicitor representing his interests and had followed advice. And I say to you, finally now, in not hiding aspects of his character which you may find unfaithful, in accepting some matters he could easily have defined, the prosecution can't
G (inaudible) them. In not just saying anything as a reason for her lying about him, is he not someone who is just doing his best in difficult circumstances to be truthful about whether or
H not he ever raped or attempted to rape [Person A]?

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When you consider all the evidence in this case, including from the witnesses called on his behalf, I say on his behalf the prosecution has not provided you with sufficient evidence to be able to discharge their burden of proof, proving their case against him, especially in circumstances where they rely solely on one witness who I say on his behalf can be demonstrated to have given evidence that just doesn't stand the test of scrutiny and logic. And the only sensible explanation for that failing to withstand such testing is that it's not true. So for each count that he faces, 17 through to 20, I invite not guilty verdicts.

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JUDGE DURHAM HALL: Well, thank you very much, Ms Kelly. Thank you, ladies and gentlemen, for letting Ms Kelly develop her themes. And the final speech today will be Ms Hertzog. I do not want to move on, I have promised in fact the gentlemen behind, that we will come clear and fresh on Monday to the final three speeches. Monday morning, it looks like summing-up starting. Oh, dear, I'm going to have to do a lot of homework over the weekend on Monday afternoon, but there it is. But we'll come back at 2.30, ladies and gentlemen. Let's give everybody here and you a decent break; Ms Hertzog to gather her thoughts. But I guess, what, about 3 o'clock?

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MS HERTZOG: Yes, about 30 minutes, your Honour.

JUDGE DURHAM HALL: 30 minutes, remember the issues. This is the toucher, did not give evidence, nothing really said in interview. OK, see you later. 2.30, all right? We can all get a break, have a good break.

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(The jury left court at 13.06)

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

A

[REDACTED]
[REDACTED]
[REDACTED]

(Luncheon adjournment)

B

[REDACTED]
[REDACTED]

(The jury entered court at 14.32)

JUDGE DURHAM HALL: Thank you. Thanks very much, OK. Now it's Ms Hertzog.

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MS HERTZOG: Thank you, your Honour. Well, first of all, members of the jury, good afternoon. You will no doubt be very pleased to hear that I am only going to detain you for around 30 minutes and then you can go and enjoy the sunshine. "That was one of the worst drunk I've ever been that night", the very words used by [Person A1] to describe the state she was in the night she says Zeeshan Ali touched her on the bottom and her breast, a girl who you know had been drinking alcohol from a young age; for years, in fact, before she reported the incident with [Person VVV] in the bath in October 2010.

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All those months drinking bottles of spirits round at Sid's house; at the age of 18, having a liver of a 30 year old alcoholic - well-used to having have a drink you may think. But on that night in October 2010, she was as drunk as she has ever been. And it's against that background, that admission, that you must carefully consider the evidence, the case against Zeeshan Ali and ask yourselves if you can be sure that he touched her bottom and her breast as she alleges; sure that she was touched sexually, as she says she was; sure that it was this defendant, Zeeshan Ali, who touched her. Can you rely on her account so that you are sure, members of the jury? It's been said before, it's a very high standard.

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She, of course, tells you that she was sure it happened. She is sure, she says, that it was Zeeshan Ali. And she may sound convincing about this, members of the jury. She may, however, simply have convinced herself of this. I urge you, members of the jury, to look past her bold assertions and her confidence. Use your life experiences. Use your common-sense. Look carefully, forensically at the remainder of the evidence about that night, all the while asking yourselves if any of the other evidence causes you to question her confidence, her certainty. Because one thing we can be sure of is that her memory of this night is certainly sketchy, hazy.

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[Person A1], of course, was the first one to admit that when she had been drinking alcohol without the sobering effects of a few lines of cocaine to help keep her on the level, she wouldn't be able to remember events unless, she says, they were traumatic. And, surely,

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A members of the jury, it can't be said that a quick touch of the bottom and her breasts would have been a traumatic experience. She told you she couldn't handle drink when taken on its own. And you may think that that's the one thing she said in this case that made sense, because she can't remember much about this night at all, can she? She went out for a drive
B with a male between 5 o'clock and 10 o'clock that night. She was drinking spirits with him all that night for five long hours. She was so drunk by the time she arrived at [Sid's address] that night, she was absolutely paralytic, 10 out of 10 for drunkenness, zero out of 10 for being high on drugs as she told the police in her video interviews. Well, she told the police, and I
C quote from her, "I was completely drunk and couldn't walk or anything like that". She said every time she put her foot down, she thought the floor was closer than it was. And she must have been, to adopt her words, completely drunk, mustn't she? Because, despite having spent five hours driving around the Bradford area with this man, she couldn't remember who it was that she'd spent that time with.

D In all of those many hours of interviews, in all the time she's had between making those interviews and giving evidence before you and still, members of the jury, she can't remember who that male was. She must have been absolutely sloshed. She can't even remember walking from the car to the house and yet, members of the jury, despite being in such a state, not even being able to walk when she's (inaudible) at Sid's house on the
E doorstep at around 10 o'clock. She went in and she carried on drinking even more alcohol. She asked for a couple of lines to sober her up but the damage had been done, members of the jury, the drugs had no effect on her whatsoever, she told you. And she stayed at Sid's house for about an hour, she said, all the while drinking more and more alcohol.

F Well, ah, say the Crown, you can be sure that [Person A1] is right in her identification of Zeeshan Ali because look at all the time that she was with him that evening, all that time she had him in her sights, no difficulty with the lighting, plenty of time to look at him, she must be right in what she says. Was with him for an hour at Sid's house before she went to [Person VVV]'s, together for 15 minutes in that taxi ride or so she says, although when you consider her evidence of her driving around looking for the house - which we'll come to later
G - you may think that was a little bit of a wild guess on her part.

H Well, does that help you, members of the jury? Surely not when you consider who else she was with that evening for at least the same amount of time that she spent with the person who touched her, as she says. Even leaving aside for the moment the fact that she's not got a clue of who the male was that she spent five hours with earlier in a car, what about the third male that she says was with them that evening? The male she spent exactly the

A same amount of time with as the other two who was there, she says, when she arrived; who went with them in that very same taxi ride to [Person VVV]'s house; the man who, after she was raped by [Person VVV] in the bath, sat with her in the lounge while she carried on drinking more alcohol before she went home.

B That man was, on her account, with her a lot longer than the person she says who touched her sexually and who left when she came down from the bathroom. But can she remember who that person was, members of the jury? Oh, no, not at all. Not so much as a name, a description. She's not been able to tell us a single thing about him. In fact, the words she used to the police were, "I can't really remember anything about him". Again, **C** hardly unsurprising given her state of intoxication, you may think. But perhaps even more staggering has been her complete inability to identify [Person VVV], the man who she says raped her. And, please, here remind yourself of her account, that even if she was supremely drunk, even just on alcohol, she would always remember traumatic events.

D Well, what she describes about being raped by [Person VVV] in the bath could only be described as a traumatic event, couldn't it? Yet despite that, despite spending the same amount of time with him as the man who touched her breasts and then more time with him being finally raped in a bath, then coming downstairs and drinking with him until she left, she has been unable to pick him out, unable to identify him. Because the police found him, didn't they, members of the jury? DC Riley told you that they'd found him, that the police had got **E** the right man. They arrested him. They interviewed him.

But [Person A1] was unable to pick him out on an identification parade. Well, I wonder why that was, members of the jury? You may think, considering her evidence, that it's because she was simply so drunk that evening that she has no reliable memory of it **F** whatsoever. Because, surely, members of the jury, that would be the one thing out of this evening that would have stuck in her mind through this alcohol induced haze. But, no, completely unable to assist the police at all in identifying that ID parade. But it wasn't just the ID parade where she was absolutely no use to the police. She was of no help whatsoever when it came to trying to locate his house.

G Twice the police drove her around trying to work out where he lived and twice she failed to be of any assistance at all. Importantly, though, in that first drive round, all she could say was this, "It was at the bottom of Girdlington". But by the time of the second drive around, she wasn't even sure that it was Girdlington at all. It could have been or somewhere else. She just simply didn't know. And how did she explain herself to the police about her **H** inability to help them?

A Well, unsurprisingly, she told them that it was because that night she was just so drunk. Those were her words. In fact, she said she couldn't even remember where they told the taxi driver to take them. She said she was really struggling. Then, in the end, coming to the conclusion that she didn't think she was going to work it out at all and, guess what, she was right. She couldn't remember where they'd asked the taxi driver to take them, yet in her **B** video interview she'd seemed, of course, so convincing about all of this. She said, "We went in a taxi. It was Faz from Ace Budget Taxis driving", adding little details, sounding so credible you may think.

C And so off the police went again, trying to find evidence to support her account. They spoke to the only person who was at [REDACTED] Taxis working for them at the relevant time with a name sounding like Faz, Fazia Nakveed. But he told the police, first of all, that he wasn't known by the name, Faz. He had no knowledge of picking up any fare from [Sid's address]. No knowledge of [Person A] and certainly no knowledge of the trip that she had described where the lads had all made off without paying. Was she right about the taxi **D** driver? Or, again, in her drunken state is this something that she simply got wrong? Got it into her head that that is what happened, that he was the one who drove them there? Convinced herself over time that she was right about that? Just like she may have convinced herself that she was touched; convinced herself that it was a man called T; convinced herself that that T was Zeeshan Ali. **E**

F It's a matter, of course, for you, members of the jury, what you make of it. You may think when considering the part of the evidence that it looked simply like she was wrong about the taxi driver and if she was wrong about him, then who else or what else might she be wrong about that night? Is it possible for a start that she's got her T's mixed up? Because, of course, we know that she knew at least one more. And she was certainly confusing, we would suggest, in her ABE interviews, wasn't she, telling the officer this at the start of her third interview, when her words were, "Some - some of it's kind of muddled up as well because there were more than one T". She told the police she might have known - that she might have known more than two T's. Well, one of the other Ts who she knew was Billy Jo-Jo's brother; Billy Jo-Jo, whose family home was on [Location F], No. 7. And you have it in your admissions, members of the jury, paragraph 39. [Location F], where she told the police a number of times the T who touched her lived. [Location F] where she told you with **G** certainty that he lived.

H But Zeeshan Ali doesn't live on [Location F]. You know that again from your agreed facts at paragraph 47. He lives at [REDACTED] ace. It's been his family home since 2008

A right the way through the period that we're concerned with. There is no record of him ever having lived at [Location F] at all. Is it possible she's mixing her T's up? Is this evening all just one big haze as a result of the amount that she'd had to drink? Because if she did remember, as she tells you she can, her account surely would have stayed the same from start

B to finish. But it hasn't, has it? Right from the off, there were changes in her account. And the Crown told you yesterday that [Person A1] had been consistent in her account and, in fact, they've used that and put it forward to suggest that she was a credible witness. She hasn't, has she, certainly not when describing the allegations that she makes against Zeeshan Ali.

C In her very first interview, when describing how all of this started, she told the police that the three of them came one day as in came to [Sid's address], you may think. Yet by the tenth interview, this party - this part of her story had changed to it being her who had gone round to [Sid's address] that day and they were already there. But it wasn't the only shift in her story. She also provided different accounts as to where the touching started, the

D important bit in all of this. In her first interview she told the police about leaving Sid's house, then she told how the lads had jumped out of the taxi and ran off without paying. She said she'd apologised to Faz, about the lads' behaviour and then she got out and she went with him and then she said, "And then T started trying it on with me". She says he was grabbing her boobs and everything like that. And so the police asked her, well, where did this happen?

E And she told the police quite clearly, "It was at [Person VVV1]'s house".

However, by the time she spoke about this again in her tenth interview, her account was somewhat different. By this time, she is telling the police that the touching started in the taxi, something very different to what she had said before. Well, they both can't be right, can

F they, members of the jury? Why is there a difference in her account? Is it because, as I suggest, her memory of all of this is hazy at best and completely unreliable at worst? Do you think it's possible that through the fog of that alcoholic haze she's just convinced herself of what she thinks happened that night? Had a feeling that someone called T was there, convinced herself that that T was Zeeshan Ali? Perhaps finding a reason in her mind for running into the arms of [Person VVV] that night given what happened with him thereafter.

G It's a matter for you, of course, when considering her account. Ask yourselves might she have embellished it? It's a matter for you.

H Of course, you will make of her what you will as a witness. You will have made assessments as to her credibility. Well, of course, she told you that she thought the T who touched her a few months after the incident when she was having some trouble with some

A lads, she said she text everybody in her phone book and it was the T who touched her that came to her rescue. Members of the jury, how can she have contacted Zeeshan Ali? When did she get his number for a start? Before that night, she said she'd only seen him once or twice and only ever said hi or bye to him.

B You may think that she may have been in no fit state to program numbers successfully and correctly into her phone the night that she says this happened when she couldn't even walk. But perhaps more importantly is the list of phone numbers that we've had a look at. We know that the incident in the bath was reported to the care workers on the 2nd of October of 2010. She moved into [Location E1] on the 24th of November, only a month and a half
C later. And that was when she changed mobile phones and wrote that list of numbers that we've all seen down. Not only so she'd have the numbers of the people she wanted to be contacted by, but so she had those of the people she was trying to avoid.

And all the important numbers were on there, weren't they, members of the jury: Sid, (inaudible), Nav, Pav, Yasar (inaudible) on and on. Zeeshan Ali's number is not on that list.
D No reference at all to anyone called T. How could he have been one of the people that she contacted? We know that Zeeshan Ali did go round to her home on the 7th of March 2011, but on that occasion we know he was with five other males and we know that because the police went round there looking for someone who had made off from a petrol station without
E paying. Well, you know the evidence that [Person A1] gave. She told you that he came round with one other or possibly two others. You may also recall her recorded evidence, you may remember that there was no mention whatsoever of him coming with anybody else.

Well, what do you make of that? But in her evidence to you she said he came with one maybe two others. Not five others, as the police found when coming round, just one or
F two. I asked her about this, was it a different occasion that she was speaking of? And, no, she told you, this was the same occasion. There were other lads there but they didn't come along with him, she explained. But how does that fit, members of the jury, with her original account that he was the only person who came to help her, as she told the police in her video evidence? No suggestion at all by her that those men that were there were the problem - the
G men she had been having problems with, just that they were there separately from him.

She was eager to tell you that he'd come round when the police had called round there, wasn't she? It was one of the things that she wanted to get in and tell you even before I asked her questions. You may recall my comment to her, members of the jury, that she'd been through this trial process before, that she's heard my questions before. Was she getting
H in her account first because she knew what was coming? And then she told you that she

A could be sure it was Mr Ali as they had spoken that time that he came round about the incident with [Person VVV].

B Well, is she right about that, members of the jury? Might she be wrong about that? Might she just be adding that to bolster her identification? It's a matter for you. Is it something that she simply might be mistaken about, that she'd got it wrong? Because, importantly, as she told the police about that day when she said he came round, that, guess what, she was drunk. No suggestion of her being (inaudible) on that occasion and we all know how her memory was affected when in drink. She was the first one to admit that. So make of it what you will. Can you rely on what she says about that conversation when he came round to (inaudible). Even if you're sure, members of the jury, that it was Zeeshan Ali who came to her address that day, and that conversation took place, it doesn't mean that he touched her sexually that night, does it? She doesn't say that there was any admission by him of any wrong-doing.

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D You would still need to be sure that, despite all her memory difficulties and her extreme drunkenness, that she was actually touched sexually by him that night. Touched at all in the first instance and touched by him and not by somebody else, the third male who was there that night, for example. Because she knew as a witness that the issue in Zeeshan Ali's case was identification, didn't she? You may recall that she was keen to get it in, that she was a hundred per cent sure that it was him before those questions could even be asked of her because, as I say, she had been asked those questions before. Keen to tell you, you may think, that she must be right about his identification because she'd picked Zeeshan Ali out on an identity parade.

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F But how does that really help you, members of the jury? First of all, when you remind yourself just of how drunk she was and of all the other things she couldn't remember about that night, her failure to pick out [Person VVV] when they put he'd spoke to her right under her nose. But she'd seen Zeeshan Ali a couple of times at Sid's and you'll recall I didn't challenge her on that. She said hi and bye to him. She knew his nickname was T. There'd been no other conversation. Is it possible, members of the jury, that she was simply picking out the person she knew as T rather than picking out the person who she had an independent memory of touching her that night?

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H Please don't forget her answers to my learned friend, Mr Iqbal QC. She told him that she was picking out the person she knew on those parades rather than listening to the question that was asked of her. And that must be right, mustn't it, members of the jury, because the question that she was asked about Zeeshan Ali was wrong and misleading. She was asked to

A pick out the person who had, and I quote and it's in your admissions, "Touched her sexually
at an address at Allerton and who had been presented at an unknown location when she was
raped by another male in an upstairs bedroom whom she knew as T". But [Person A1] had
never ever made an allegation that T had touched her sexually at an address in Allerton, Sid's
B home. The question was wrong. She was simply picking out the person who she knew as T.

So how can that help you at all, members of the jury? Perhaps if she'd never met
Zeeshan Ali, but only that night, that might be pretty strong evidence. But, as it is, I would
suggest it takes you absolutely nowhere. It's wholly unhelpful. Just like the evidence of the
defendant's convictions possessing and supplying crack cocaine and heroin, how on earth can
C that help you to decide the issues in this case? It's not even suggested that he was offering
her crack and heroin that night. She was taking a completely different drug that night,
cocaine. But when you look at the issues in this case, when you look at her state of
inebriation, where does that evidence really take you? How can it help you (inaudible)?

Now you know that Zeeshan Ali was interviewed about these matters. He was
D arrested, first of all, for conspiracy to rape. Well, that has never been alleged against him at
all, has it? But he told the police that he knew [Person A1] as Sid's girlfriend and he denied
that it was him. And, as Ms Melly QC concedes, he effectively raised the issue of
identification. He was very clear, it wasn't him. He didn't do anything. Now the Crown say
E that you can use his failure to give evidence against him, use it as evidence of guilt. And as
the learned judge will tell you in due course, you can only do that if the evidence is so strong
that it calls for an answer.

Well, that cannot be said in the case of Zeeshan Ali, can it? I would suggest that the
evidence against him is exceptionally weak, is wholly unreliable and you may think when
F you consider everything that it didn't call for an answer. Because what could he have told
you over and above that which you've already heard in his interviews: it wasn't him, she'd
got it wrong. I ask you, members of the jury, on his behalf not to hold his decision not to
give evidence against him. He didn't have to give evidence before you. He wasn't under a
duty at all to tell you his side of the story because, as you know, members of the jury, and
G you've heard it before, he doesn't have to prove anything at all to you.

You've heard much about the standard of proof in this case and by now, of course,
you know that you need to be sure of guilt before you can convict. In the case of Zeeshan
Ali, you must be sure of two things: firstly, sure that [Person A1] was touched sexually as
she said that she was that night. If you're not sure, if you can't rely on her account given just
H how drunk she was, then it's easy, it's not guilty. But if you are sure that she was touched,

A then you need to go on and consider whether you were sure that it is this, Zeeshan Ali, who touched her.

B Is it possible that she got that wrong? Is it possible that she had a memory of the man called T being there that night? Is it possible that over time trying to piece together the huge gaps in her memory, some of it that she still can't recall like walking in front of the car to the house, that she simply convinced herself that that is what happened? Is it possible that little details like a conversation with him at her home just simply didn't happen? Especially when the evidence about that visit is just so contradictory and unreliable in any event yet again when she was drunk on that occasion?

C And so, members of the jury, thinking to yourself it's possible that he did it, well, that's not good enough. Even thinking to yourself, you know, he probably did, again, members of the jury, that's not good enough. Even if it might just be possible that Zeeshan Ali did not touch her sexually that night, then it's not guilty. Only if you are sure that Zeeshan Ali touched her and touched her sexually on that evening, can you convict him of this offence.

D And I say on his behalf, that when you look carefully, forensically at the evidence surrounding this evening, bringing to this evidence your common-sense and your life's experience, you can find that the Crown has fallen far short of the very high standard that they must reach in order to make you sure of guilt. Members of the jury, if I'm right about that, then I would urge you, on Mr Ali's behalf, to find him not guilty. Thank you.

E JUDGE DURHAM HALL: Well, thank you, Ms Hertzog. Now, ladies and gentlemen, is it OK to meet up at 10 o'clock on Monday? Seriously, if there's any problem let me know. Yes? OK. And we'll finish Mr Wilson and, probably quite briefly, Mr Dallas and then Mr Ferm. That will take us I think to lunch-time and we'll see where we go from then, OK. Thank you.

F But do, please, please, please do remember to come back. It is absolutely - you know how essential it is. You are now within absolutely the sight of going into your retiring room, OK. And I'm anxious that that happens as soon as we've all done our job. So 10 o'clock, all good, I hope and all well and please remember my warnings. I don't know what is being published about this case or? Nothing? Nobody's seen anything that worries you? Good. Well, that's pleasing. But you know that you are the judges. Only you knew what's going on, so you can ignore anything and everything you hear, if anything is out there in the ether. All right, thanks very much indeed. See you 10 o'clock. Have a great weekend, thank you.

H (The jury left court at 15.03)

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ADJOURNED AT 15.10 UNTIL MONDAY, 18th FEBRUARY 2019

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