

## TRANSCRIPT OF PROCEEDINGS

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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

**18<sup>th</sup> FEBRUARY 2019, 10.02-11.34, 11.50-13.05, 14.11-14.59**

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

**A**

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**B**

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**C**

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A

(In the presence of the jury)

JUDGE DURHAM HALL: Good morning to you. Right, now it's Mr Wilson's turn. OK.

B

MR WILSON: Good morning, ladies and gentlemen. I hope you're well. And I want to start off with my first subject that it's the little things because there were two little words uttered by Kieran Harris during the course of his evidence that perhaps said more about him as a person than I could ever say. And those words weren't said to me. They weren't said to Ms Melly. They weren't said to his Honour, and they weren't even said to you.

C

And those words, as unremarkable as they are, were said when he was undergoing perhaps one of the sternest, most stressful and demanding examinations of his life, and those words were thank you, and they were addressed to Mrs Beckley, our court usher, when she went to help him with a folder that Ms Melly wanted him to look at. Well, it doesn't take much to say thank you, does it? But we're perhaps all guilty of failing to notice and appreciate the small kindnesses that others offer us.

D

But he did notice, despite all that we – that he was going through at that critical time. And what it showed, I suggest, was someone who could put aside all his own anxieties and appreciate that there was someone, a relative stranger, coming to his aid. And it demonstrated, I suggest, someone who was courteous, who had respect, and who had simple common decency.

E

You see, in this case, like any other case that comes before a court of law, a lot is asked of you. You're asked to make judgments and reach conclusions about people that you don't know, and have had little time to, in reality, to get to know. You're expected to assess them and other witnesses in the case who are also strangers to you. And you are directed to come to conclusions based on the evidence given by them.

F

For example, with Mr Harris, you saw and heard in the witness box for, what, two to two and a half hours. That's barely no time at all. And based on that small window of enlightenment, you're asked to decide whether he is guilty or not. But it's sometimes the barely perceivable little things that you notice about someone that can perhaps lift the fog of uncertainty. Those little things can make a difference about how you view a person, what you end up thinking about them. They give you little clues as to who and what they really are like, like that little thank you.

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So, let me give you some other examples of those little things in his case. Well, you will have looked from time to time at the dock to see what the reaction was in – in that dock, by these defendants, see how they were behaving. Well, how did Mr Harris behave? Did he sit there quietly concentrating on the evidence? Was he attentive, taking notes from time to

**A** time? Was he interested in ensuring he understood what was happening? Or was he someone who made a choice to be deliberately distractive, one of those who thought the dock was a good place to chat, to laugh and joke, to yawn and belch, and to mess around? Well, I think you'll find Mr Harris came into the former category, the first category.

**B** Certainly, outside court, you may have observed defendants outside when you come out at the break or at the end of the day. Was he in a huddle with other defendants, laughing and joking, or was he primarily on his own, or speaking to me? Well, he wasn't one of those laughing and joking outside the court, I think you'll find.

**C** When he gave evidence, Mr Harris was always courteous and respectful, no matter who it was who was questioning him. Even, when Ms Melly, using her best endeavours to provoke him to get a rise out of him with her graphic and highly emotive accusations, he remained calm. He remained respectful. He never raised his voice. He never got into an argument with her. His answers were firm, direct, and to the point.

**D** Well, there was perhaps one person who let their irritation and frustration get the better of them when Ms Melly was often asking convoluted, confusing, and repetitive questions, and demanding an immediate answer, when what was required was some thought to unravel what was actually being asked, and that was me. I barked out, "Let him answer." But Mr Harris, no. When he gave his answers, perhaps he, of all the witnesses that you've heard from in this case, was the only one who directed them to you. He was able to look you straight in the eye when he gave his replies. It's another little thing that might make a big difference to you.

**E** You see, what we look for when we watch witnesses when they're giving evidence, when somebody is under pressure, for example, in a job interview, as well as giving evidence in court, it's not only what they say, it's how they say it, what their demeanour is when they say it. And the answers he did give were generally short ones, weren't they? Yes, no, that's correct, yes, I was mistaken, I didn't do that, I would never do that. Of course, sometimes answers require more of an explanation because it depends on the question. But generally, most questions can be answered quite simply. What he didn't do was get me into prolonged arguments with his questioner. He didn't prevaricate. He didn't play for time. He wasn't deliberately evasive. As I say, he was direct and to the point.

**F** And what he didn't do was use the witness box as a platform to make speech without actually answering the question that was asked. And why might that be? It's because people who have nothing to hide and who are telling the truth have nothing to fear from the question,

**H**

**A** as long as it's a fair one, and so don't need to embark on some rambling, meandering monologue in attempt to avoid giving any real answer to the question asked.

**B** So, compare, if you will, how Kieran Harris gave evidence with how other witnesses gave evidence, and particular – particularly [Person A]. [Person A], if she didn't like a question or felt uncomfortable about it, or was caught out by it, what she did time and again was to avoid it. And what we got a lot of the time was her talking as much as she could for as long as she could and giving an answer that bore little or no relation to the question asked. In political terms, it was a type of filibustering.

**C** Well, I fully understand that it can be difficult sometimes to answer questions about matters like the ones we are concerned with in this case, even when you're telling the truth. But it's much more difficult when you're not. When you're not telling the truth, that's when you need an overly long time to think, to think about an answer, when you need time to avoid it. That's when people start going all round the houses and deviating from the topic, and try and come up with something that may sound like an answer, which really isn't.

**D** Another little thing – Kieran Harris' family. You know that his mum, and his partner, [Person EEEE], have been here nearly every day to support him because they believe in him. Again, it's only a little thing, but it gives you some clue as to his background and the people that surround him. Who else can say, or has said, that his family have been there for him throughout this trial. Even the way he dressed – always a shirt and tie. It's a mark of respect for the institution that is trying him and the people that are trying him, i.e. you. He's not just come to court and thrown on the first thing that he can find – he could find. It showed he cares.

**F** Finally, this, on this topic. There's an old saying that maneth – manners maketh the man. What that really means is that you can judge people by the way they behave. Therefore, those people that are courteous, who are restrained in the face of provocation, and who do show common decency and respect to others, no matter how lofty or lowly their status, the more likely they are to be true to their word, and – and can be taken at their word.

**G** So let me move onto my next topic. Identification. Well, just to reassure Ms Melly and you, yes, it is an issue, an extremely important one in Kieran Harris' case. Well, Ms Melly told you that throughout her lengthy interviews, [Person A] named Kieran as the man responsible for raping her over and over again. Well, firstly, that's a slight exaggeration because [Person A] only talked about Kieran towards the end of her first interview in 2014, the end of her second interview in 2014, and in respect of the 13<sup>th</sup> interview in 2016.

**H**

A

At no point during those interviews was she able to provide an address or a surname for Kieran. She told the police that they could access her Facebook account to look for details of persons she named, including Kieran, and no such records have ever been produced. At one point during those interviews, she told the police it was [Person DDD1] who had swapped with Fahim Iqbal, [Person DDD1] Iqbal, Fahim's brother. Well, have to consider, was that a slip of the tongue, or was that her – thank you, your Honour – here in an unguarded moment letting slip the truth? And she also told Ms Melly this when she was talking about the names of people, "Everyone lies about their names." So how sure could [Person A] ever be that everyone she met gave their true name. But the person calling himself Kieran wasn't lying about that name.

B

C

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Well, Ms Melly went on and suggested to you that, firstly, there is no doubt whatsoever to the identification of Kieran Harris by [Person A]. Well, that's a bold statement indeed. Secondly, she had seen him on many occasions over many hours. Well, that's factually incorrect and a complete exaggeration. Thirdly, she picked him out in an identification parade. Factually correct, but with some very major caveats.

E

So, let's look at those propositions and test them. Well, the first person that she identified as Kieran was [Person EEE]. That identification of him as Kieran must, I suggest, as a matter of common sense, raise a doubt about any identification of Kieran. [Person EEE] is the cousin or second cousin of Fahim Iqbal, and we'll come to what [Person K] said in due course, and what [Person A] had told her about Fahim's cousin, Kieran.

F

In terms of [Person A]'s ability to identify anyone, you heard about the identification of [Person DDD], Fahim's brother. And what she's said to Police Sergeant Jesson was that she could only be 70 per cent to 75 per cent sure that the image she'd selected was [Person DDD1], yet [Person DDD1] was a man with whom she'd had a sexual relationship for a number of weeks after Fahim had dumped her for [REDACTED]. And the reason that she slept with [Person DDD1] was because she was jealous. She wanted to get her own back on Fahim. She wanted revenge, so she used [Person DDD1]. She was using sex and using men consciously and deliberately to get what she wanted. It wasn't her being used by [Person DDD1]. It was the very opposite, her using him.

G

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Well, does that not resonate with what [Person D] told you? [Person A] would do and say anything to get her own way. Of course, she also told you that [Person DDD1] was somebody she'd been in regular contact with day and night, sober and drunk for four to six months, but she could only be 70 per cent to 75 per cent sure that the person she picked out was [Person DDD1]. Well, if it was that difficult for her to pick out [Person DDD1], how

**A** much more difficult it must have been to correctly identify Kieran, given, firstly, she only met Kieran on four occasions – four occasions, not the many that you were told by Ms Melly, and only for a few hours overall. Secondly, that when she'd done so, she was either drunk or in the process of getting drunk. And, thirdly, that on two of those occasions, she claims her  
**B** drinks were spiked with some sort of hallucinogenic that had rendered her virtually unconscious with little or no idea of what was going on.

And you know that at this time, [Person A] was drinking heavily. She was doing drugs. She was taking antidepressants sporadically, and had liver problems, caused by her excesses. The point is this. She was always more likely to be able to identify [Person  
**C** DDD1] on the facts than Kieran. But even in his case – [Person DDD1]'s case – she couldn't be sure.

And when it came to her supposed identification of Kieran Harris as Kieran, that wasn't an unqualified identification at all because at the end of the process, Police Sergeant  
**D** Jesson had to ask this. "You seem upset. Is there something you want to tell me?" Answer: "I messed up the third identification. I was looking for the wrong person. Question: "You made an identification of the third one, i.e. that was [Person EEE]. Did you get the image wrong or the name wrong?" "I'm not sure no more. I don't know anymore."

What she was saying that she was sure – or what she wasn't saying was that she was  
**E** sure she'd got the third identification wrong. She was saying she wasn't sure one way or the other. She didn't know, so she couldn't be right. But it doesn't stop there because Police Sergeant Jesson then went through what had happened in the identification – identification procedure involving Kieran Harris. And what he said was this. "You were asked if you could pick out anyone. You said number 5. You were asked if you knew that  
**F** person. You said yes. You were asked who you knew that person as. You said that's Kieran."

And then Police Sergeant Jesson asked [Person A] this. "How sure are you it's  
**G** Kieran?" Answer: "I don't know anymore. I'm not sure anymore. That was not an unqualified positive identification of Kieran Harris being the person Kieran. Those words do not suggest that she had no doubt whatsoever or that she was sure. They are the exact opposite of having no doubt whatsoever and being sure. And those were her very last answers on this supposed identification of Kieran Harris on the 20<sup>th</sup> of January 2017.

However, by the time she comes to this court before you, she did say she had no  
**H** doubt whatsoever that her identification of Kieran Harris as Kieran was correct, and consider the circumstances. That's two years on from the identification procedure. That's not what

**A** she was saying much closer to the events she's described and when they would almost definitely have been fresher in her mind. How does that answer, in this courtroom, fit with the obvious and clear expression of doubt she voiced to Police Sergeant Jesson on the 20<sup>th</sup> of January 2017?

**B** Her memory of Kieran, fuddled as it must have been by the consumption of alcohol, drugs, and the presence of hallucinogenic, was not going to be better with passage of time, was it? So, I suggest to you that there was no doubt whatsoever about the identification of Kieran Harris by [Person A]. is not only a bold statement is my submission. It's an utterly false one. And if that's right, there must be considerable doubt about that suggested  
**C** identification of Kieran Harris by [Person A], and, therefore, how, in all good conscience, could you possibly rely on it?

**D** Well, now I'm going to tell you a true story that happened in this court the other week that concerns me and Mr Bell. Over the four months and the two trials of this case – there have been two trials, as you know – they've taken approximately four months. I'd like to think that myself and Mr Bell have got to know each other pretty well. We've stayed in the same hotel and dined together, had drinks in the hotel bar. Well, the other week I was heading into this courtroom. Sat outside the court working diligent – diligently on his computer was Mr Bell. I can assure you I wasn't drunk or hungover. What I did, I have to accept was something of a juvenile prank.

**E** Mr Bell hadn't seen me, so I snook up behind him and knocked his wig off his head, and then quickly made my way into this courtroom before he could see who it was. When I walked in, other counsel were here, including a bewigged Mr Bell sat in counsel's row working diligently on his computer.

**F** I was mortified because, not only had I made a complete misidentification of Mr Bell outside the court, I'd also technically assaulted another member of the bar. Well, to date, I haven't yet received a summons from the police or been charged with a disciplinary matter by the Bar Council, so fingers crossed. But that's what it was, it was technically an assault. But the point of the story is this, and it's a very obvious one, how easy it is to make the  
**G** mistake in identification of others, even if it's someone you know well and in the present day.

[Person A], she only knew Kieran for a few days and a matter of a few hours. By the time of the identification procedure, there had been seven years since – since she'd last seen Kieran, and nine years by the time she gave evidence in this courtroom.

**H** Next topic. Descriptions and photographs. During the course of her closing speech to you, Ms Melly directed your attention to a photograph of Kieran Harris in your bundle behind

**A** divider 12. Well, (inaudible) in due course. It's a photograph dated the 20<sup>th</sup> – 25<sup>th</sup> of July 2008; therefore, it's some two years, four months before Kieran Harris ever met [Person A].  
**B** And what it shows, as you will see, that at the time of that photograph, he had on his left eyebrow what appears to be a shave mark. Ms Melly then suggested to you that it was no coincidence that [Person A] had described Kieran as having a scar through one of his eyebrows in her interviews and that here was a picture of Kieran Harris with a shave line through his eyebrow that could've been mistaken for a scar.

**C** Well, I'll let you know what my thoughts were. Was she seriously suggesting in the five minutes that she'd allotted for dealing with the prosecution's case against Kieran Harris that one of her best points, or one of the best points that she could make was that that photograph of Kieran Harris in 2008 provided any support for [Person A]'s description of Kieran, and it – and her subsequent supposed identification of Kieran Harris.

**D** Well, I do hope Ms Melly doesn't take this the wrong way, but I have to say what a spectacular own goal. But it was better than that. It was like an own goal hat-trick because in that pack of photographs of Kieran Harris that you have behind divider 12 are three aces that trump Ms Melly's (inaudible) every day of the week.

**E** So, let's look at them, and at the same time remind ourselves of the description of Kieran that [Person A] had given to the police. And they're dated. The first one the 25<sup>th</sup> of July 2008, second one 11<sup>th</sup> of October 2010, third one 16<sup>th</sup> of October 2010, and the fourth one, 7<sup>th</sup> of January 2011. How she described Kieran during the course of her ABE interview was this. He had a pointy face, pointy cheekbones, ears and chin. His nose and eyebrows pointed up. He had a scar through his eyebrow. In respect of his age, she said back in September 2014, he was between 24 and 28. And in respect of his hair, she said this back in 2014, "He had his hair cut not too long and not too short. It were like kind of messy, and then he kind of had it all shaved off. I think it were like short back and sides."

**F** So, look at those, the three photographs dated the 11<sup>th</sup> of October 2010, 16<sup>th</sup> of October 2010, and the 7<sup>th</sup> of January 2011. Of course, all those three photographs were taken within a matter of weeks of Kieran Harris' meeting with [Person A], not years before like the one from 2008. And do any of them show either a shave through his eyebrow, any eyebrow, or a scar? None of them do.

**G** In respect of the hairstyles seen in all three photographs, they are all the same. It's a high cut fringe, looks as though it's gelled, shaved sides, very short on top. It's very distinctive. There is nothing messy about it, and it doesn't appear, does it, from those three photographs, that between October 2010 and January 2011 it's been cut or changed in any

**H**

**A** way. The hairstyles we see in those three photographs do not conform with [Person A]'s initial description of a man with messy hair, not too long and not too short.

**B** Well, what of his other features, as described to the police, of Kieran. Well, Kieran Harris doesn't have pointed eyebrows, and his nose is most certainly not pointed up. It is large, broad, and flat. So that doesn't meet the description, does it, that [Person A] gave? And at the time of these alleged incidents, he was 20, not 24 to 28, as [Person A] had described Kieran. Well, she also said he looked like some evil pixie. I suppose it's all subjective, but Gollum, he most certainly isn't Kieran Harris.

**C** The way we recognise people, how we remember them and identify them, comes from particular and distinguishing features – the colour of their eyes, scars, marks, tattoos and the like. That's why the police ask eyewitnesses (inaudible) did the suspect have any distinguishing features? Any scars, tattoos, et cetera?

**D** Well, in Kieran Harris' case, the most distinguishing features he had at the time that he met [Person A] were these – gold teeth and a tattoo on the right side of his neck. The gold crown on his upper central incisor, you can see very clearly in that photo of the 16<sup>th</sup> of October 2010. It would've been unmissable, even at a distance. No mention by [Person A] in her evidence, in her ABE interviews, at all of Kieran having any gold teeth. How could she have missed it? How could she have missed - if the Kieran she's describing is Kieran, how could she have missed in particular that upper gold tooth, especially when she alleges that during the course of the two rapes, that man was laughing at her, laughing at her.

**E** The answer is she couldn't possibly have missed the fact that Kieran had that gold tooth if it was there. So, the fact that she failed to mention such an obvious and distinguishing feature in the ABE interview, in any part of her evidence, leads to one very obvious conclusion, that the man that raped her on those two occasions did not have gold teeth. And, if he didn't, that man cannot have been Kieran Harris. At the very least, it raises another – another considerable doubt about her purported or alleged identification.

**F** And just to add to the point, let me remind you of one of the things she said about Izar Hussain, Billy Jo Jo. In his case, she did recall, didn't she, that Billy Jo Jo had a gold front tooth. So, she was more than capable of seeing those things. She knew – and we know from the admissions that he had a gold tooth at that time. So, she could identify it in respect of him, but not in respect of Kieran.

**G** But there's more. There's no dispute that before Kieran Harris ever met [Person A], that he had a tattoo on the right side of his neck in the name Kieran. In her interviews, as in her evidence, she said that Kieran wore t-shirts when he visited. Again, not a word uttered

**H**

**A** about Kieran having a tattoo on his neck in 2014, in 2016, or during any trial. Again, how could she have missed such an obvious and distinguishing feature?

**B** In a social context, it would probably have been a subject of conversation, wouldn't it? What's that tattoo on your neck? What does it say? But nothing, nothing. So, whoever Kieran was, it would seem that he had no such tattoo and, if that's right, again, that Kieran cannot have been Kieran Harris.

**C** So, let's go back to [Person EEE], the first person that [Person A] purported to identify as Kieran. According to the police identification image (inaudible) that the police have to fill in before a video identification procedure takes place, there is one part of it where the police have to make note of any unusual physical features and any unusual marks, scars, and tattoos. In respect of the form filled in for [Person EEE1] - [Person EEE], he had two shave lines in his left eyebrow. But what there is no mention of is that he had any gold teeth or any tattoos. So, is it a coincidence or not that the first person she picked out as Kieran, her rapist, was [Person EEE] who had two shave lines through his eyebrow, who had no gold teeth, and had no tattoos.

**D** But it doesn't stop there because along came [Person K], who prosecution say [Person A1] confided in about these two rapes. Well, you've heard what she said in her statement, where it seems she was suggesting it was someone called [Person FFFF] that [Person A] told her about in respect of the second incident where her drinks were spiked, and either [Person FFFF] or Kieran in respect of the first one, the sex swap allegation. You've also heard about what she said in interview to the police back in 2015 about what [Person A] had disclosed to her, and you've heard what [Person K] has said in evidence in this courtroom when, by this time, she was quite sure that [Person A] had said that it was Kieran that [Person A] had told her about.

**E** Well, when she gave evidence, she told you that she had been in contact with [Person A] a few days before. That would've been at a time when [Person A] was in the process of giving evidence by you. Why they were talking, you might wonder. What you might think, now that she has firmed up at [Person K1] on the name Kieran, as opposed to what she said in her interview in 2015 and in her statement, you might think that there has been some form of collusion between [Person A] and [Person K] because she also told you about details that never appeared in her interview, that never appeared in her statement.

**G** She told you this - that [Person A1] had told her that she was bent over in a dark room and Fahim was having sex with her from behind. Then Kieran came in. She looked behind and saw Kieran. No mention of that in her interview in 2015, no mention of that in her

**H**

**A** statement, that detail. So where did she get it from? Was she being told by [Person A], “Say it’s Kieran, say it’s Keiran. It’s Kieran, not [Person FFFF], not anyone else. It’s Kieran.” So, where did she get that sort of information from when she’s never said it before? And why did [Person A], if it’s right, need to do that, to collude with her? If there has been

**B** collusion then how does that affect your trust and faith in either of them?

Well, turning to that interview with [Person K] in 2015, she told the police that [Person A] had told her about these two incidents, that it was Kieran or [Person FFFF], or someone like that. That’s a summary of what she told the police in 2015. And then she was asked this, in that interview, whether she met Kieran, and she said yes, that he was Fahim’s

**C** cousin. He was the dodgy one. Kieran Harris’ isn’t the cousin of Fahim. And you now know that [Person EEE] is. So, it is a case of [Person EEE] passing himself off as a Kieran at some point in his meetings with [Person A1]? Is that yet another coincidence, or is it yet further proof, if any was needed, that the prosecution’s assertion that Kieran Harris was the person who raped [Person A] two times is and must be wrong.

**D** What we do, therefore, know from [Person K] is that a cousin of Fahim Iqbal was purporting to be Kieran, and that of course could not be Kieran Harris. So, what else did [Person K] tell you, or rather what she didn’t tell you? [Person A] told you that [Person K1] was there when Kieran turned up with two mates on a fourth occasion, the fourth and final

**E** occasion, and that her drinks were spiked, and that she got so bad that it was thought that she would have to go to hospital. There was panic. A pretty memorable event, you would think, except for this. At no point has [Person K] ever suggested that such an incident took place when she was there.

She has some recollection of being told about it, about something about spiked drinks,

**F** but she was not there. So, you have to ask yourselves did it ever happen at all, and does that not cast even more doubt on [Person A]’s reliability as a witness of truth?

Next topic, ladies and gentlemen. Lies. [Person A] said in answer to a question by one of my learned friends that she had mentioned all the 10 men in the dock to the police, social services, CMS staff, and Barnardo’s prior to any interview she had with the police in

**G** September 2014. Well, you’ve heard, certainly in respect of Kieran Harris, there are no records, no complaints, no memos held by any of those institutions that refer to anyone by the name Kieran. So, there are only two possibilities, aren’t there? Either each of those institutions has been grossly negligent, or [Person A] told you a deliberate and calculated lie.

**H** In relation to PCs Taylor and Gatenby, who interviewed her on the 20<sup>th</sup> – on the 12<sup>th</sup> of July 2013, at the last trial, she told Mr Moulson, not once, but twice, that she had told them

**A** everything, told them everything about the people who had abused her and used her. And she also said the same to Mr Iqbal. “I was giving the officer a list of the names of people that had abused me and that had done wrong to me in the past.” At this trial, [Person A] told Ms  
**B** Kelly that she was giving those officers an account of what had happened to her, but before she could complete what she wanted to say, they stopped her. That, I suggest, was another calculated and manipulative lie. Those two different accounts cannot both be true. Either way, whether at this trial or the last, she lied on her oath to a jury. What you do know from those PC Taylor notes is that there’s not one single reference to Kieran.

**C** So, then we come to Switalskis. She has told you that what she suffered at the hands of Kieran was one of the worst experiences of her life. And so, we come to the 17<sup>th</sup> of September 2014 and her four-hour meeting with ██████████ at Switalskis, her solicitors, during the – during the course of which she gave names, she gave details of abuse she suffered, and who she’d been raped by, and who had attempted to rape her. So, the detail was there.

**D** So, let me remind you what she said to ██████████ r, and this is the first occasion the name Kieran was mentioned by her to anyone. And she said this, “Once I was living in the accommodation – when I was living in the accommodation in Dewsbury, a man called Kieran turned up with about 10 other men. I was in my pyjamas, but he forced me into the bedroom and made me dress in sexy clothes for them.” And that’s it. There is no more. How long  
**E** would it have taken her to say this, “I was raped twice by a man called Kieran at my accommodation in Dewsbury.” 10-15 seconds. She said nothing about rape. She said nothing about spiked drinks. She said nothing about being videoed or otherwise humiliated.

**F** And being forced to put on sexy clothes is neither here nor there, is it, in the context of the allegations she now makes. But there was complete silence. Why? If these were some of the worst things that ever happened to her, why didn’t she mention it to her own solicitor? And there was not a mention at all.

**G** The first time there was any allegation of sexual intercourse with Kieran didn’t come till the 23<sup>rd</sup> of September to the police, not before, not to the police at the time, social services, CMS staff, Barnardo’s, not even to her own solicitor. And her accounts have changed over the years, and I’ll give you two examples. In 2014, she was telling the police that the first time Kieran came round, he was all right. He came with one other and then went. No suggestion of any inappropriateness at all at that first meeting. However, by 2016, that had become, “As he was leaving, he asked me for a blow job.” Why the change? How  
**H** did her memory get better with time? So, there’s one example.

**A** Example number 2, in 2014, she said that when the swapped sex incident had happened, her drink was spiked. That's what she was saying then. By 2016, she was just drunk. So, there have been variations in her account, even to the police. So, what we seem to have from [Person A] is that her accounts have snowballed, gone from nothing to some little  
**B** accusations, to more, and more, and more. It appears that they become more detailed and more numerous with the passage of time. And that, I suggest, all points to invention because what tends to happen with the passage of time is that recollections and the details lessen (inaudible) deal with complaints.

**C** Ms Melly spent a long time going through grooming, and what it means, and how that happens, and how young girls react to it. Well, [Person A] accepted that Kieran, whoever he is, was not one of the groomers. He had no connection to Sid's house in [Sid's address], Bradford, or the people associated with that address. She never heard the name Kieran mentioned at Sid's address. And in Kieran's case, he wasn't like family. It wasn't a case of being emotionally manipulated before things happened. And the rape she alleged against  
**D** Kieran were violent and blatant. That's what she said in terms of her replies.

**E** You see, that may have been her reasoning for not reporting to the police others associated with that address in [Sid's address], who she now says raped her and abused her because she, effectively, claims (inaudible) "because of the relationship, the caring relationship that I had with them." Yet, we know from the admissions that she had complained to the police prior to the 23<sup>rd</sup> of September 2014 about a number of incidents, including rape and sexual assault.

**F** She told Mr Moulson at the last trial that the reason she hasn't been in contact with the police about any of these defendants, because it was difficult. And then she went on to describe the rape of (inaudible) [Person VVV1]. "The rape with (inaudible) [Person VVV1] was very violent, blatant. There were no mind games involved. There was no grooming. The others, they made me feel wanted. They convinced me they were family." Well, if that might have been a reason for not reporting many of the men in this case, it was no reason not to have reported Kieran, was it? And she couldn't really answer the point that I was making  
**G** to her. And the fact is, until the 23<sup>rd</sup> of September 2014, not a dicky bird out of her about Kieran.

**H** So when – let me come to the alleged incidents themselves. And you have to decide two matters – if they happened at all. If they did, was that Kieran Harris? And I say that because what I suggest to you is that those accounts of what's supposed to have happened lack credulity. The first allegation of rape, what is being asked of you is that you believe and

**A** fully expect that she didn't realise that there had been a swap of partner, that she remained on the bed on all fours whilst Fahim went to the door for about a minute or so, and that in that time she never looked around to see what was going on at the door. She remained where she was, in the position she was. She never looked around to see what was happening, which you **B** might think would be quite a natural instinct in those circumstances, and she never looked to see who was coming back.

And you – they ask you to believe, do the Crown, that Fahim allowed a person with whom he's just had a row and an altercation with to have sex with her after him. And then after that, he had sex with her again that night. It just isn't, in my submission, believable or **C** credible.

The second incident of rape, by this time she was in a relationship with Fahim, she told you. He was her boyfriend. Those were her words. Kieran showed up with two others. This is the person who had raped her a few days before, and she let him in. She didn't call the police. She didn't call CMS staff, who were just round the corner. She didn't call Fahim. **D** And so, she says, that her drinks were spiked. She was raped, humiliated, and videoed. Why on earth not? Why didn't she call the police or, at worst, Fahim? Why let him in at all if he'd raped her a few days previously.

And the last bit, Kieran comes round again with two mates. She let him in, despite **E** now having been raped twice by that same man. She didn't call the police. She didn't call CMS staff. She didn't call Fahim. Why on earth not? And perhaps what gives you a clue as to its lack of credibility is this – notwithstanding that she believed on the first or the second occasion of rape where she thought she'd had her drink spiked, she accepted a drink from Kieran and was spiked again. How credible or plausible is that as an account. Somebody **F** who has raped you twice, somebody who spiked your drink and raped you, you let them in and then you take a drink from them. It just isn't believable.

[Person A] was desperate to get out of the CMS hostel she'd been in (inaudible) and into her own house. When she moved into [Location E1], she was free to have around who she liked, when she liked. And what we know from CS – CMS staff who went to check on **G** her, there was always a large group of men at her house late into the night. She had choices.

In the first place, it was her choice to move out of her own house or move out of the CMS hostel to her own house. That was her choice. It was her choice to give out her telephone number. It was her choice as to who she gave the details of her address to, and it was at this time that she'd made the choice to breakaway from the [Sid's address] set in **H**

**A** Bradford. So, she was making choices, and she was more than capable of making informed choices as to who she invited round and how long they – she allowed them to stay.

**B** And we know that she did make choices to report incidents to the police. And then when they – when she did so, they invariably turned up to take her account. Did you seriously think that, if [Person A] had been raped and reported it to the police, or if she was in fear and didn't want people in her house, then the police would not have come, especially when that person was on her own in Social Services care, and only seventeen and a half. That's what the prosecution accept – asks you to accept.

**C** Moving on, Fahim Iqbal. He's one of those defendants who's chosen not to give evidence before you. Now, of course, that's his choice. And you might have formed the impression, from the questions asked by Mr Dallas, his counsel, of [Person A], and he wasn't in dispute about much of what [Person A] was saying from the witness box. And he wasn't disputing much of what she said happened on that sex swap night, and that, in effect, he was suggesting, through his counsel, that it was Kieran Harris who had swapped with Fahim.

**D** But when it came to Kieran Harris and cross-examination of him, bar some obscure question about someone else, there was no challenge at all to Kieran Harris' account. Well, you know that it's the duty of counsel representing any defendant to put their client's case to your witnesses, and we do that on the instructions of our clients. And you might want to ask why it was that Fahim Iqbal's counsel never once suggested to Kieran Harris that it was him who had grabbed [Person A] by the hair and made her put something sexy on. It was never suggested to him that he was the person who took the opportunity to have sex with [Person A] after Fahim, against her will.

**E** Kieran Harris, because there have been no questions at all by Fahim Iqbal's counsel, has never had any opportunity to answer any allegations because none have been put to him, so what can you make of that? That it's not his case, that it was Kieran Harris that raped [Person A] that night? Well, there are many questions that I would have liked to ask Mr Fahim Iqbal, but I couldn't because he hasn't given evidence. Not least I would have liked to ask about his brother [Person DDD1], [Person EEE], or maybe some other cousin that was going round to [Person A]'s with those three on various occasions.

**G** Now, you're all perfectly entitled to ask yourselves why it was that Fahim Iqbal did not give – give evidence in this case in his own defence. Is the real reason that any account he could give either wouldn't stand up to scrutiny or because it would be a lie. Was it because to go in that box and tell the truth would be to put – put one of his own relatives in the frame? Is the reason to protect them, [Person DDD1], [Person EEE1], and any other

**H**

**A** relative of his? Is it to protect him - them that he dare not give evidence, his account to you? That's a matter for you, what you make of it. But he has had no courage whatsoever to stand in that witness box and address you, unlike Kieran Harris.

**B** And if you've heard, therefore, no evidence from Fahim Iqbal, there is nothing from him that supports the prosecution case. His counsel's questions cannot and do not provide indirect support for [Person A]'s account. And, if further proof was needed as to why you should completely dismiss anything suggested on his behalf by his counsel, just look at his interviews when he said nothing. Just look at his prepared statement, which he made when you know from the evidence that you've heard that the allegation was put to him about the sex swap incident, that he swapped with a sexual partner, swapped with another when he was having sex with [Person A].

**C** And what he said in his prepared statement, "I did know [Person A]. I confirm that during that - the time that I did know her, there were numerous occasions I engaged in consensual sex with her. The first such occasion was in a car virtually outside her address at [Location E], Staincliffe, where vaginal sex took place. On other occasions, we had vaginal and oral sex. This involved having sex in her house on a consensual basis. I deny rape and conspiracy to rape." That's what he said. That's all he has ever said. That's no answer, is it, to the allegation that he faces of aiding and abetting a rape, no suggestion there about there being an occasion where there was a swap with another man. It's as if it never happened. But in that prepared statement, there was certainly no mention of Kieran or Kieran Harris, is there?

**D** Kieran Harris. Next topic. From the very outset, he's denied raping or having any sexual contact with [Person A]. That's his prepared statement in his - before his first interview. And he did give a full interview to the police. It wasn't a denial of knowing her or ever having been to her address. It wasn't a case of confess and avoid. That is, yes, I did have sex with her, but it was all consensual. His case was very simple. It didn't happen. It wasn't me. If it did happen, I know nothing about it because I wasn't there. So, the issue is very simple. And when you read his interview again, as you no doubt will, you can sense from that his confusion. You can sense his disbelief. "I don't know why she's saying that." "I don't know what to say, other than that she's lying or she's mistaken. It's not true."

**E** And you'll recall that the police never told Mr Harris prior to any interview that [Person A] had also picked out [Person EEE], and that what she said at the end of his identifica - identification procedure, was that "I don't know. I don't know anymore. I'm not sure anymore." He was never told that. So, he took it, like Ms Melly asks you to take it, that

**A** there was no doubt about the identification of him by [Person A]. Well, you now know, don't you, that that's different. That's not right. What else could he say? What else could he say?

And his evidence to you has been exactly the same, entirely consistent with what he said in interview, bar the odd mistake, which he's held his hands up to. One thing that **B** (inaudible) four or five times, in fact, which received the same answer every time was that he told you there were one or two occasions when the police turned up because of complaints by neighbours. "So why," asked Ms Melly, "did you keep going back?" He was 20, a kid, at a stage of his life when he was making the break from his parental bond.

**C** What do kids of 20 do? You know from your own commonsense, they want to be with their mates. They want to be out drinking, clubbing, whatever. They don't want to be stuck at home with mum and dad watching TV, or Coronation Street, or whatever it is. And he was with mates, and they were Muslim. They couldn't be seen in the local community as his mates. They couldn't be seen in the local community drinking and smoking cannabis, could they? Because of criticisms of Muslim elders.

**D** And what was [Person A]'s address? In reality, it was an open house, wasn't it? Anybody could come round. And he'd just had his first child, as well, a child that was born prematurely. And when you look at his account, his stopping seeing [Person A] coincides with the time that his son eventually comes home. So, maybe, it was like the last opportunity to go out with his mates before taking on the full responsibilities of fatherhood.

**E** You also know about him, that he's in full time employment and has another – a daughter – another daughter with [Person EEEE]. Yes, he has three convictions, only three convictions, none of them relevant to the issues that you have to decide, and as for the one, the battery, in relation to his former partner, you now know the circumstances of that, and that was, what, six, seven years ago now. Didn't involve any beating, as the title of that **F** conviction might seem to suggest, so he's got nothing for dishonesty, nothing for sexual offending, nothing for drugs.

Well, you've heard him, you've seen him, and you will assess him both as a person and as a witness. If he was or may have been telling the truth then he is entitled to be **G** acquitted. It's for the prosecution to prove everything. He doesn't have to prove anything at all. And if there is a doubt about the prosecution case, if you're not sure, then it's your duty to act on that.

**H** (Inaudible) this, compensation. Now, I know Mr Moulson has been through this with you in some detail, but there are just a couple of points, and I wonder if you could get out the agreed facts in respect of compensation. There's a couple of points I wanted to (inaudible)

**A** about those agreed facts, and it relates to what [Person A]’s motives were or might have been into bringing these allegations, because what [Person A] says is that she wanted to bring to the attention of the public child sexual exploitation in Brad – in Bradford. What she asserts is that it was nothing to do with money. It was a moral campaign.

**B** If you go to the 27<sup>th</sup> of August, that’s number 3, the Daily Mail published a story. Now, what it says, the headline is “Child victim of Rotherham sex abuse scandal could be in line for compensation totalling £140,000,000, says solicitor representing her.” It’s all about money. Is that what caught her eye? Is that what prompted her to make a move? There was no earlier reports about the case seem to have moved her, because the very next day, the 28<sup>th</sup>  
**C** of August, she sends an email to BBC North, the very next day after this article has been published about what sort of compensation the girls in Rotherham were going to get, £140,000,000. What she doesn’t do, of course, is go to the police. It takes BBC North to inform the police.

**D** We then go to the 10<sup>th</sup> of November 2015. [Person A] contacts her solicitor at Switalskis and the conversation is again all about the money. [Person A1] stated that the Rotherham girls were going to get £100,000 and asked how much she would get. She was told that she should not get ahead of herself, as there have been no charges or convictions yet. Well, one, it’s all about the money. But it ties in, doesn’t it? The amount of compensation is linked to the number of convictions that are brought or come about. There appears, on the  
**E** view of that solicitor, to be a link between the amount of compensation and convictions.

In her mind, she was already thinking, from that conversation, what was in it for her, what it was worth. That’s what she was interested in. What do I have to do to get it? So, going back to [Person D], [Person A1] would do and say anything to get what she wanted. Is  
**F** this not a case of what [Person A1] wanted is the money, and she will do and say anything to get it, even if that means exaggerating, inventing, accusing entirely innocent people. And what you do know now is that [Person A] was quite prepared to use people for her own ends to manipulate them if she felt the need arose, just like she did with [Person DDD], just like she did with Social Services and the staff there, just like she did with [Location B1], just like  
**G** she did with CMS staff.

Whether this case is all about the money is perhaps not that material to the issues in Kieran Harris’ case because I suggest there is every reason to have doubts about the prosecution against him on her account and her account alone, even without this matter of compensa - compensation. But it perhaps provides some further explanation that her  
**H** accounts have gone from nothing to a little bit of something, to full on allegations against

**A**

everyone she can think of. Maybe it's the prospect of a substantial payout that made her make up, exaggerate, or embellish accounts of sexual abuse. But once she committed herself to that path, there was no turning back. Thank you very much for your patience.

**B**

JUDGE DURHAM HALL: Thank you indeed, Mr Wilson. I think we'll have a – a little break now, yes, before moving on quickly to Mr Dallas. Is that all right with you? If we can do it in 15 minutes, that's fine. But if you need longer, we'll wait for you, all right. Thanks a lot. Thank you.

(The jury left the court)

**C**

[REDACTED]

**D**

[REDACTED]

**E**

[REDACTED]

**F**

[REDACTED]

**G**

[REDACTED]

**H**

[REDACTED]





A

[REDACTED]

B

[REDACTED]

C

[REDACTED]

D

[REDACTED]

E

[REDACTED]

(Short adjournment)

(Court reconvened 11.50 in the presence of the jury)

F

JUDGE DURHAM HALL: Well, thank you very much. We're going to hear from Mr Dallas. Mr Dallas has pushed himself further – closer towards you. If any of you complain, I will have him sent back, all right. Thank you very much, Mr Dallas. Thank you.

G

MR DALLAS: Thank you, your Honour. Well, members of the jury, I know that in theory you are sitting on the edge of your seats with your pen poised, ready to hear the reasoned arguments of yet another gentleman dressed in 18<sup>th</sup> century gear, and are hoping it will never end on day 3. In reality, I know you are wondering if it's at all possible that Mr Dallas could possibly be a bit shorter than Mr – Mr Wilson.

H

Well, I wouldn't blame you if that is what you're thinking, and I promise I will be much shorter, but I hope none the worse for that because Fahim Iqbal appears on one count only, count 22, with a very specific allegation that he aided and abetted Kieran Harris to rape [Person A1]. It's obvious, isn't it, that the case against Fahim Iqbal is totally different to the case against the other nine. So, why do I say that?

**A** Well, for a start, he is the only defendant whose own sexual activity with [Person A1] is not alleged to have been unlawful in itself. Even the prosecution do not try to go behind [Person A1]'s account of what amounted to enthusiastic consent over several weeks with a person who, when asked by the police to describe physically, described him as a 19-year-old  
**B** boy with a slim, muscley body, really nice brown eyes, full lips and a beauty spot. Well, this was a relationship that ended, sadly, when he left her for someone called ██████ not a legacy against which you would imagine that she is likely to do him any favours, is it?

**C** But in his case, you are not at all concerned with the boundaries between submission and true consent that you've heard so much about, and his Honour will be directing you about in due course, because grooming has absolutely nothing to do with Fahim Iqbal's case. He is the youngest of these defendants and the nearest to [Person A1] in age. The single incident with which you are concerned took place either at the very end of 2010 or very early in 2011 when [Person A1] was seventeen and a half and Fahim was nineteen and a half. Fahim was  
**D** not part of the [Sid's address] group. She never saw him there. She never even met him until much later when she moved out of residential care and was living independently on [Location E1].

**E** Although it turns out that he was – is the nephew of one of those who are associated with that – who is associated with that group, Parvaze Ahmed, [Person A1] herself repeatedly made it clear that her contact with both was entirely coincidental. Fahim met her through Kieran Harris, who, it seems, had in turn met her not through any of the other defendants, but through Facebook, Harris not knowing any of the other defendants.

**F** You are looking at what happened on that one night, the party night. On that day, it is agreed that they had met each other for the first time. It was clear that Fahim had no idea who she was until they had already met and talked about things in common, and his uncle's name happened to crop up. No one passed her on to him. He cannot be accused of going to the party with any idea of exploiting or taking a chance with someone he heard to be vulnerable because that is not the evidence.

**G** Fahim Iqbal is not accused of giving her drugs. He's not accused of spiking her drinks. He is solely, as I say, concerned with the events of one night some nine years ago now. Well, the defendant has not given evidence. Why not? He has not failed to give evidence for the reasons suggested by Mr Wilson just now. He has, as I anticipate his Honour will tell you, a right not to give evidence, as others have exercised. And the law says that you must not hold his failure to give evidence against him unless you are sure that the  
**H** prosecution is of such a strength against him that it calls for an answer from him. And only

**A** then, if you think that the true reason for him not giving evidence is that he didn't think his evidence would stand up to questioning.

Remember, as people say time and time again, and understandably, the prosecution have the burden of proving the case against each defendant, and they have to prove nothing. **B** Sometimes, it's a very carefully – careful and difficult decision for a defendant to decide whether the case against him calls for an answer. In this case, we say there is a very clear case that there isn't because, very unusually, we rely wholly on [Person A1]'s own evidence, the prosecution's witness, to establish his innocence, or, more accurately, to say that the case against him is far from proved, so that there is, therefore, no call for Fahim to submit himself **C** to cross-examination from prosecution, counsel, and what sounds, from what he was saying, a mauling from Mr Wilson.

I'm sorry not to have given him the satisfaction. But there is no duty on me to put a case against his client, contrary to what he said, because Fahim was not putting forward a positive case of his own. He was criticised for not saying anything about this incident in his **D** interviews. Well, again, remember what the officer in the case told you a long time ago. I know you've long since forgotten. But Fahim Iqbal was being interviewed about his entire relationship with [Person A], and that's what the prepared statement was all about, a position which the prosecution did not challenge, namely that it was all consensual. That was what he was facing during the police interviews. This particular single night, a secondary role in **E** someone else's alleged rape, was only a part of the picture of what he was being asked about at that time.

Well, what can the prosecution prove? This is the only defendant charged with something called aiding and abetting. His Honour will direct you about that in due course, **F** and he will – and I hope I don't do anything more than just set out the principles, as I understand them to be, but his Honour has – is the arbiter of the law.

First things first. You've just listened to and you will be evaluating the arguments on behalf of Mr Harris, and I don't get involved in that, what the prosecution have said and what Mr Wilson has said on his behalf, but it is a – a fact that if, at the end of the day, you do not **G** convict Kieran Harris of count 22, of raping her at the party, then the case against Fahim Iqbal does not even get out of the starting blocks. In other words, you will be directed that if Harris is – if you're not sure of Harris' guilt and find him not guilty, then you must put out further consideration of the case and also find that Mr Iqbal is not guilty because he's charged with assisting the principle. If the principle is not proved to be guilty then clearly the **H** assistant can't be either.

A

But even if you do find Harris guilty and then go on to consider at that stage the case against Fahim Iqbal, what has to be proved? It has to be - you have to be sure that Fahim knowingly assisted Kieran in some way, positive assistance, deliberately given. So, for example, if his actions simply gave an opportunity for Kieran to rape her, which clearly, they did, it's obviously not enough because he might have been assisting him through chance, but he wouldn't have been doing it knowingly.

B

And it's not enough to say, either, well, a defendant could've intervened to stop the crime because a mere failure to intervene is not a crime without more. It's not positive assistance. And in any event, that would not be an issue in this case because [Person A1] has herself told you that the rape by Harris or whoever it was, was very short-lived, that the opportunities for anyone to intervene would be very limited because of the speed of which all this happened in the darkened room with the loud music and everybody having had something to drink.

C

D

She said "He did not have sex for long. I worked it out almost straightway from the feel." She told him to stop and he did. So, this isn't something unfolding in front of people's - with time to intervene. Thirdly, you must be sure that he knowingly assisted Kieran whilst knowing what Kieran was doing or intending to do. In other words, to rape her. In reality, you may think that you can only convict if the evidence made you sure that Kieran and Fahim were parties to a plan whereby Fahim agreed to stop having sex with [Person A1] and to quietly allow Kieran to take over.

E

F

If such a plan existed, it clearly was not hatched on (inaudible) whilst Fahim was having sex with her because [Person A1] reports nothing having been said or done which could suggest that. There would have been no time, you may think, from her description of the short time it took with a gap between the two people having intercourse. So, if this plan is to be a runner, you may think, it must have been made even before Fahim went into the bedroom with her. So, how likely is that?

G

Well, in answering this, I will refer to [Person A1]'s own evidence. I will do this repeatedly, and I will be doing this because Fahim is possibly the only defendant who is inviting you to rely upon [Person A1]'s evidence in court. My learned friend, Ms Melly said that almost all of what [Person A1]'s said is not accepted by the defendants. Well, not so in the case of Fahim Iqbal.

H

We did not challenge her evidence in any material respect. Generally speaking, the reason for that is obvious, isn't it. This is because [Person A], who you may think had no reason now whatsoever to want to do any favours to the - to the boyfriend who left her years

**A** ago, but who had the advantage of being there that night, unlike the rest of us, clearly does not believe that he was involved in this shocking incident. And she is the only witness who gives material evidence about Fahim and what he did that night.

**B** There is nothing else, nothing else at all. Mr Harris gave evidence, but he said nothing. He gave no evidence to support the prosecution case against Fahim Iqbal, so I find myself in a bizarre situation, in a closing speech on behalf of the defence on relying and making all my submissions based upon the evidence of the prosecution's own star witness.

**C** Well, ladies and gentlemen, how likely is it that Kieran Harris and Fahim Iqbal planned this together? Well, firstly, the relationship between them. Again, there is agreed evidence about that from both Kieran Harris and from [Person A]. They were merely friends of friends. They didn't even know each other very well. They weren't buddies who go around planning to abuse women or – or commit crime together. They were just people who came in separate cars, friends of friends. There's a party on. And hardly partners in crime, were they?

**D** Secondly, and more specifically, and as a matter of common sense, this so-called plan that you must be sure existed in order to convict, was a plan that must have been agreed between them shortly after – on [Person A1]'s evidence – the two conspirators had been having a little fight together. You will remember she told you that as Kieran Harris was pulling her around by the hair when she had not immediately agreed to go and get changed into what he regarded as sexy clothing that Fahim and his brother [Person DDD1] intervened physically to stop him doing that, and generally behaved in a way I hope we all would have done, had that been something that they had seen happening.

**E** How likely is it that Kieran Harris, against that background, would even think of asking Fahim to swap over? And, even if he had asked, how likely is it that Fahim Iqbal, from what you know about his behaviour that night with [Person A1], would have agreed? It's nonsense, isn't it? Thirdly, let us assume that two young men decided to have sex and then for the one to pass the other – the unfortunate lady onto the other. Is it likely that the first one would do that before he had himself had his wicked way and ejaculated himself?

**G** What would be in it for him? And yet she says that he stopped having intercourse before he had ejaculated, and I'll come back to that, to why that might have happened.

**H** Fourthly, when could this plan have been dreamt up? [Person A1] had been sitting, as she says, on Fahim's knee. They'd been kissing and cuddling, and one thing led to another, and then they went together to the bedroom, closing - pushing the door to behind them.

When could Harris and Iqbal have agreed to this without her knowing? I'll turn now to what

**A** actually happened in the bedroom. The central point for the prosecution is that there could be no other reason for Fahim to stop having intercourse with [Person A1], other than to hand over to Harris.

**B** Well, obviously, without more, that is a - a possibility, but you're not dealing with possibilities. You have to be sure, and it's obviously not the only possibility. But in any event, the prosecution ignores the evidence, the evidence of what their own witness remembers having actually happened. Now, her evidence was that she was having consensual sex with Fahim from behind. Her evidence was that, after a time, there was some sort of disturbance at the door, what she called childish behaviour. Fahim stopped having intercourse. She thought he'd gone to deal with the disturbance, so she stayed in position with her head down in front. After a short time, she felt her hips being held and intercourse resuming, and she quickly realised that it was – that something was – felt different, and it was wrong, and she told you who she saw it was. And she said that the gap in intercourse had been long enough for Fahim to have gone to the door.

**D** She said that he'd said something at the door, although she couldn't remember what it was. She was taken through it several times, not just by me, as it's my duty to do, but also by my learned friend for the Crown. In re-examination, she gets the last opportunity to ask questions, to try to shore up her case. What, in fact, she got was this. And I paraphrase and edit it, but I hope accurately and fairly.

**E** "I'm pretty sure that Fahim said 'one minute' and walked towards the door. I fully expected him to return. I slouched in my arms a bit. There had been a disturbance in the hallway. The door opened a bit – had opened a bit, like a head round the door, childish. I was unaware of anyone actually coming into the bedroom. If they had, I would have covered up.

**F** They went back to the hallway, front room area, laughing. I heard noise, general talking by people, drunken talking. I put my head in my hands. It was more like Fahim saying like 'fuck off' there was no argument, then everything went quiet. Then sex resumed. Nothing had been said. The door was open a bit. I could hear voices in the passage. It then went muffled as if Fahim had shut the living room door, I thought." And then she finished by saying, "I think – I thought Fahim had gone out to scatter the silly people, and they were further away than the bathroom," which you may recall is bang next door to the bedroom, and then beyond that, the living room.

**G** In other words, [Person A1] was describing having heard and seen things, which positively suggested that there was another reason why he had broken off having intercourse

**H**

**A** with her, other than the one the Crown would fly before you, and that's all it is, and that the  
real reason was the need to chase off the sniggerers at the door. To her, it sounded as if he  
was driving them back to the sitting room and the living room door being closed. And if she  
had heard [Person A1] say – sorry, Fahim saying “fuck off” that clearly indicates, doesn't it,  
**B** that he was scattering the silly people, as she put it, who had been disturbing their sexual  
activity in private. It explains why he broke off before ejaculation and it explains why he  
may have said that he'd be back in a minute because that's what he intended and hoped to do.

And this is the prosecution's own evidence; therefore, explains and allows the  
opportunity for the opportunist rapist, whoever he was, to take his chance. And it also  
**C** explains why Fahim was quickly back on the scene, and why she remembers him being back  
in the bedroom.

Now, this brings me to what the Crown said to you about whether Fahim had in fact  
been in the room during the very brief time when the rapist was having sex with her. Ms  
Melly, in effect, is asking you to be sure that Fahim was in the room watching simply  
**D** because [Person A1] once said as much. But that is a highly selective cherry picking of  
[Person A1]'s evidence as a whole. The whole point of a criminal trial, we would submit to  
you, is for a jury to be able to consider the evidence of a witness as a whole, especially one as  
important as [Person A1].

What has she said at various times? Has it been consistent? What is her final and  
considered position about something? How does she respond to testing questions? That's  
**E** why we're all here. That's why Ms Melly cross-examines, why we cross-examine, to see  
how the witness stands up to that, and get a better idea of reliability and truth for you to  
judge, hopefully. It's all part of the trial process.

Well, let's look at what she did say about this issue. The earliest account about this  
must have been that remembered by her friend from those days, [Person K]. She's not now  
sure exactly when [Person A1] told her about this incident, but it may have been, she thought,  
whilst [Person A1] was still living at [Location E1]. In any event, whenever it was, her  
account to [Person K1] must have been long before, long before any account she later gave to  
**F** the police, and later here.

The account given to – [Person K], said Johnson, was this. Fahim had been having  
sex with her in the dark. Fahim had left the room. Someone came back in and started having  
sex with her. She had thought it was Fahim, but it was someone else. Her next account was  
her first police interview in September 2014, a brief account of the incident, which does not  
**G** include any allegation that Fahim was in the room at the time.  
**H**

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The account Ms Melly relies on, because it's the best she can get to keep her case on the road at all, was interview number 13 in April of 2016, over six years after the incident. And a video interview is of course just that. There is no testing of her evidence, as there is in the trial itself, where she repeatedly said, repeatedly told you, in front of you, that she did not know where Fahim was during the short time when Kieran Harris was raping her.

B

After telling Kieran Harris to get off her, she started to cry and lowered her head back to the bed. And at some stage she saw Fahim next to her, seeking to comfort her. And despite being repeatedly asked by Ms Melly at the end of her evidence, she could not say that Fahim had been in the room at the time of the alleged rape. And it was quite obvious, wasn't it - you saw and heard her - that she did not really believe that he had been.

C

So, the first and last account that she ever gave about this, including the one that matters, we would say, when in court, was that – does not enable the prosecution to put him in the room, let alone watching or actively assisting. Let's put it much more simply. If she can't be sure about that, how can you be, unless there's some other evidence, which there isn't?

D

If I told the police, as I might well be tempted to do, that Mr Wilson had hit me on the head outside court tonight, and given a statement to that effect, and he's prosecuted, and I come into the witness box because he has the temerity to plead not guilty. And I say, "Well, actually, on reflection, it might not have been him who did it," I would not expect the prosecution to have a happy outcome because, if you were the jury, you would say "Well, how can the prosecution be sure that it was Mr Wilson who hit Mr Dallas?" Well, it's the same idea here. She might have said something to the police, but her considered, and fair, and reflective view was that she couldn't be sure of this, not even unsure. She just had no memory placing him in the room at the time.

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Well, what else did she talk about, which may point you one way of the other. She says that on more - one or more occasions, some of them were laughing at what was going on, yet she expressly said that Fahim was not one of those. Maybe they were the ones who should have been on trial for aiding and abetting, not him. [Person A1] told Mr Wilson that she didn't know whether Fahim had been in league with the other man or not. However, as I've said, she later made it clear that she didn't really believe that he had. In particular, she could point to nothing about what he did or said that made her believe there on the ground that it was him. On the contrary. She had a lot to say about his actions afterwards, none of which suggested he was in league with the other man. In fact, it suggests quite the opposite, both to her, and, I submit, to us.

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What were they? Number one, after the alleged rape, Fahim, having ascertained from [Person A1] what had just happened, went to the front room where he appeared - she couldn't hear the words, but it sounded like he was remonstrating with Kieran, with his brother [Person DDD1] sounding as if he was joining in on Fahim Iqbal's side, so, in other words,

B

something a bit like what had already happened before this incident.

Number two, Fahim, at her request, then got everybody else to leave, and he not of course asked to leave himself. Number three, he seemed genuinely sorry at what had happened. Her evidence to you was that his words were – and she said this more than once – “I’m so sorry. I didn’t know.” Again, Ms Melly played the same theme to you. She picked up on the fact that back in 2016, she had, in the untested police interview, attributed these words, years later, to him, “I’m so sorry. I didn’t know it would upset you,” which are some words, which enabled her to, as it were, play with her submissions in a more positive way. But that isn’t her evidence in court. She was adamant the only words she could fairly recall as him saying were, “I’m so sorry. I didn’t know.”

C

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Fourthly, Fahim did not leave with Kieran and the rest, but stayed the night. If he’d just been involved in a little bit of trickery of this – this woman that he was just wanting to treat in this despicable fashion, why hang about? Go off with the rest of them, laughing into the – into the – into the night. But he didn’t. He stayed the night because he didn’t want to leave her in her upset state, and because she asked him to, and they later went on to have intercourse, which she says was consensual, and a prelude to a consensual sexual relationship that went on for some time until he ended it against her own wishes.

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Number five, and again, as ever, it’s her evidence I’m referring to, after the incident, he disassociated himself from Kieran, as you would hope and expect after something like this happening. She said words to the effect “Fahim wouldn’t come to the house or flat if Kieran was there.” Number six, he remained generally protective of her welfare. There was another occasion – you may have forgotten about this, it was tucked away in the police interviews and hasn’t been really looked at in the trial – but she told you about another occasion when he had intervened physically to protect her on that occasion to stop an associate of Kieran Harris’ from assaulting her or damaging her television and furniture.

G

So, do you seriously imagine that if any of those things, which point away from his involvement, had been the other way around, that she would have wanted him to stay, to have had sex with her, to have started a relationship with her? Well, the reason was that she was happy for it to be that way rather than “get out with the rest of them” just because she didn’t

H

**A** believe for a moment, from the way he was believ - behaving before, during, or after, that he'd been in it.

**B** In short, the prosecution relies entirely on the evidence of [Person A1] to prove its case against Fahim. She herself does not believe he had been involved, and reports nothing to the contrary. If she, the sole witness and victim, believes him to be innocent, how can the prosecution, without other evidence that they do not have, conclude otherwise? You may wonder why he was prosecuted and involved at all. Possibly, they hoped that having him in the case might have strengthened the case against Harris. I - I don't know. But all you have to decide is whether you can be sure on his active and knowing role in this.

**C** We submit to you the prosecution have fallen far short of being able to do so. It might be possible that he was involved, but we submit the evidence makes it probable that it wasn't – that he wasn't involved, unlikely that he was involved. None of those are thresholds you need to worry about. You start much higher up. Can you be sure? Have the prosecution made you sure of his active involvement? Nowhere near, ladies and gentlemen.

**D** JUDGE DURHAM HALL: Thank you very much, Mr Dallas. Thank you. Now, Mr Ferm has very kindly, as one would expect, offered to start now – he won't be finished by one, but he – he doesn't mind the break in between, all right, so we'll make a start. Thank you, Mr Ferm.

**E** MR FERM: Have you also agreed to having me in the six-yard box? This is not going to be a short speech because it's the only opportunity I have, on behalf of Mohammed Usman, now, and I intend to look at a lot of detail in his case, and the evidence deserves that, and it needs it, and if you feel that you wish to make notes, particularly look at times, witnesses, then please do because I know that you will be in retirement a couple of days from now, and, if you work through the defendants one by one, then it will be some days after I've sat down before you begin to look at the case in relation to this man, who, as you know, faces two charges of rape against [Person A], to which I will come.

**F** Having said that, I want to begin the real speech that I'm going to make to you today with a concern that it is not easy for Mohammed Usman to have a fair trial. This case has not been presented in some ways, and is not necessarily a level playing field. In saying that, I don't mean anything about you. I don't know anything about you, apart from the fact that you've attended every day and you appear to listen, and, on occasion, take notes. I have no reason to believe that you are anything other than fair-minded, decent people, who are going to apply open minds when you look at the evidence, nor is it a concern about his Honour.

**H**

**A** I've got two issues. The first concerns the word grooming, which has been used in this trial and in the press. It's an emotive word, but, even worse, it's been known that there has, in many cases, been an association between Asian men and younger, white females from dysfunctional homes and backgrounds. And that is something that you have to consciously  
**B** ignore, but it's in fact easier in the case of Mohammed Usman, and I can deal with this because he is not in the category of groomers. He is not a groomer, as we in these courts know it, and I anticipate that that distinction may be made for you when summing up arrives.

However, to deal with it, as I said I would, he didn't meet her until she was around 18 years of age when he is alleged to have committed these offences. She wasn't in a children's  
**C** home. She wasn't obviously in care and under supervision. She was living independently in her own house, and he thought she was about 20. There is no evidence at all that he knew of her past life and background or previous experiences. There is no evidence at all that he knew any of the co-defendants in this case. He was not involved at [Sid's address], even on [Person A1]'s account.

**D** He didn't supply her with drugs. That is her evidence when she was asked about it in her interview. And, in fact, in his evidence, and in his account to the police, he said that when she asked him for cocaine, he declined to provide it to her. And so, sex here was not facilitated. She wasn't softened up by the supply of drugs to create a sense of gratitude or  
**E** obligation from him, which is a hallmark grooming, you may think.

But finally, the allegation against Mohammed Usman has nothing to do with these features at all. The allegation against him is of old-fashioned threats to obtain submission of a woman to rape through fear or fear of violence, which is the age-old classic description of rape, so it's got nothing to do with grooming, and I believe that I've laid that to rest.

**F** The second concern that I have about a fair trial, however, has been more difficult and will be. There's been an atmosphere created in this case by the way in which the prosecution have chosen to present it that has given rise to what is, in reality, not a level playing field. The assumption or approach of the prosecution appears to be that whatever problems there are with [Person A1]'s account, however it can be tested and shown to be inadequate or  
**G** worse, you can disregard all of that because she's an abused girl and her allegations must be true, so that's all right then.

Now, contrast that with what I submit is the double standard of how they approach the evidence of Mohammed Usman and his account. He gets off a plane at Manchester airport on the 5<sup>th</sup> of June 2016 in the evening, not expecting to be arrested, but knowing the police  
**H** want to speak to him, although he doesn't know about what.

**A** On the following day, I accept with a solicitor, he is questioned about events, which were about five years beforehand, and, in reality, he's only questioned about it on that day because the January '17 interview was about an identification made, which was never  
**B** necessary in his case because he's never questioned identification, as I shall repeat in due course. In that interview, answering every question, and I'm going to come to it in more detail, so there's not the greatest need to look at it now – there will be enough paper to look at in the course of what I'm going to say to you.

**C** In that interview, he answered every question, and he gave an account, which he stands by, with one exception that, thinking back, he now thinks that there were not three occasions when he was at [Location C], but four. And for that change of detail, those second thoughts, which might be understandable in the circumstances as an attempt to tell the truth, he was absolutely (inaudible) by Ms Melly, wasn't he, as being unreliable, inconsistent, and untruthful. And yet when we come to look at [Person A1], all is forgiven because that's all right then.

**D** And just in summary, before I come to the much-promised detail in this speech, [Person A1] fails to mention her allegations against Mohammed Usman to anyone for years, even though she's seeing professionals, medical staff, most of them female, through the years, and nothing comes out. Her account, secondly, is in many ways inconsistent with that of other witnesses where it can be tested. Thirdly, over the years, she mentioned the  
**E** defendant on two occasions, on the 30<sup>th</sup> of July to the police, and on the 12<sup>th</sup> of July 2013, so she doesn't forget about it. But she mentions him not in a sexual context but as somebody who's been an assaulter or who's assaulted her.

**F** Finally, [Person A1] has told what I submit are provable lies, not just lies that I assert with lies, but provable lies, but no problem. That's all right then. You can go on to believe her. You're asked to ignore all of that. Now, is that the way in which you would approach the task of weighing up whether you believe somebody in everyday life by ignoring failures to mention things over years, inconsistencies being out of line with other clear evidence, mentioning the defendant as doing something quite different and then telling lies?

**G** Well, that's the age-old way, I suggest to you, if you think about it, that in court juries and judges actually weigh up and decide what credence they can give, how safe and reliable they think that the evidence of the witness is. And make no mistake about it, the evidence of [Person A1] as to the allegations against Mohammed Usman is entirely uncorroborated by any other evidence, apart from her. There is other evidence, of course, which, in part, is why  
**H** this speech is going to be as long as it is.

A

And now I propose to look at it, and I'm going to deal with it in various sections to try and break it up and make it logical and easier to follow. Firstly, I want to deal with the way in which the complaint eventually came out because, if you think about it, if a shopkeeper comes out of his shop and there's a man running down the street, and he shouts "Stop, thief" then it's instant and you've got a good idea that there's a shoplifter or thief making his or her way quickly away from the scene with the loot. But the converse of that is when something isn't mentioned over years and years with opportunity after opportunity to do so. That is something that you need to begin to look at and question, isn't it?

B

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On the 30<sup>th</sup> of July 2011, as we know, and I'm going to come to it again when I look at the evidence in relation to that in detail to show how unsatisfactory the evidence of [Person A1] is, there's no mention of anything sexual to the police, even though they were called to her house on a complaint. She receives a domestic violence letter afterwards, telling her how to go about complaining and who to complain to, but nothing.

D

She does know the procedure for reporting a rape to the police because she did that, as you know, on the 15<sup>th</sup> of July 2010. And here she told you the first of the provable lies, which she's told in this court. She said that the police weren't bothered, weren't interested in her allegation. Well, what happened? She makes the complaint on the 15<sup>th</sup> of July 2010 to the police, and on the 22<sup>nd</sup> of July 2010 she goes through the same procedure of video camera interview that you've seen on occasions in this case so that her evidence is preserved in the easiest and most comfortable circumstances for her.

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And the police, according to their records, start looking for witnesses. But on the 27<sup>th</sup> of July 2010, the records show that [Person A] doesn't want to pursue the complaint any further. But even then, the police keep the file open, and it isn't closed until a date in 2011 in case it revives, or she changes her mind. And the – the evidence of Detective Constable Riley, you'll recall, was that far from the police not being bothered about this allegation, it was taken very seriously.

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According to [Person A1], she said the policeman said that she wouldn't be able to prosecute this rape, and that's a lie, isn't it? Just the same as the police not being bothered, putting the blame on others, untruthfully. It's someone else's fault. So, in relation to the 15<sup>th</sup> of July 2010, number one, she knows the procedure already for reporting Mohammed Usman because she's gone through it part of the way but she doesn't report it. But secondly, she has told you what are - is a provable lie or lies about what happened to that allegation.

H

Well, I'm dealing with the way that this complaint came out against Mohammed Usman, and the next thing that I want to (inaudible) is what happened in June 2012 when she

**A** was seen by a consultant psychiatrist. Obviously, she saw him because of her state at the time. I'm not here to denigrate her. I'm here to look at whether, objectively, she can be right on what the objective state of the evidence is.

**B** She's certainly sought to denigrate Mohammed Usman, as far as we're concerned, by accusing him of things that he has always denied doing. More recently, it's recorded there's been two incidents where she'd done something to a friend in the belief that the friend had said something very insulting to her face. Later, it became apparent that this was something that she imagined and not in fact reality. There were also a further two incidents where she was seeing and talking to relatives and friends that weren't there. It involved many members of friends and family on each occasion, and lasted between one and two hours.

**C** Now, I don't know whether that helps you or not because I'm conscious of the need not to be seen to be taking cheap points against [Person A1], but if she has mistakenly, wrongly, or for some other reason accused Mohammed Usman of doing something then it's not the first time it's ever happened, and she accused him for the first time years down the road.

**D** Well, moving on a year, the 12<sup>th</sup> of July 2013, the police come to her house in connection with (inaudible) enquiry. Her – they're immediately told that she's recently been diagnosed with psychosis, and that's part of the background against which she apparently talks to the police at that stage. But she does tell them that she has been sexually abused or ill-treated, or in a relationship that shouldn't have happened with a number of individuals, who she goes on to name, and who are noted down, but she doesn't say that against Mohammed Usman.

**E** Now, if – and he's the most recent of the people who have apparently sexually ill-treated her. It would be one thing, members of the jury, if she'd left him out altogether at that stage because she could always say there were too many to mention. I had sex with so many Asian men. They all look the same, as she was to describe to DC Taylor, all Asian with black hair, that I really didn't have him in mind, or there wasn't time to mention him because the police officers were interested in something else.

**F** That's not the case. She actually named him but not as an abuser, as an assaulter, and so it was that when the police were stimulated into action in relation to this inquiry in September 2014 because of events you know about, but it's for the first time that she mentioned Mohammed Usman as somebody who has committed a sexual, as opposed to a non-sexual crime against her.

**G**

**H**

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Now, I'm going to look at her account and what she said to the police and her account and evidence in relation to Mohammed Usman later, but I want to say something now about compensation, and I shall return to it, but it's important that I should tell you now that it is not my case, on behalf of Mohammed Usman, that the answer as to why she named him is as simplistic or at all as being a deliberate lie to get compensation. That's not my case and it's not what I'm saying at all.

B

There is a very disturbing feature about [Person A1]'s evidence about compensation, to which I'm going to come, and which is another provable lie, but you'll have to wait until after lunchtime to anticipate that.

C

You can't leave out entirely from the history, the way in which this develops, can you? Because that's always relevant as to whether somebody is reliable, or safe, or not. And that's the history as to how this came out.

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Now, the next section of the evidence that I'm going to deal with is the question of the period of time over which this is alleged to have happened, and whether in fact it could have happened during that period because that's always relevant. I'm going to begin with the change of dates on the (inaudible). You'll recall that when I was cross-examining [Person A1] about this, I specifically referred you to the dates in counts 23 and 24, which were generously timed between July 2009 and the 9<sup>th</sup> of July 2011 - counts 24 and 25, sorry. (Inaudible)

E

The prosecution have now moved those dates to the 31 – 31<sup>st</sup> of July 2011, and it's no surprise to me that they've swapped and moved the goal posts, and I (inaudible) to object to that. But let this be clear. This is the prosecution's indictment. I have no power or part to prevent it, and the suggestion for amendment could not come on the application to amend it, could not come from me. But it's got consequences and inferences, which you need to consider.

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In her evidence, as you're aware, [Person A] said that she first met Mani at the back of June. In her video recorded evidence, which I am now going to remind you of, she was asked this. "How long before that incident was the first time that you met him?" "A few week. It weren't that long. Maybe a month and a half." And the incident which the police were talking to her about at that point was the 30<sup>th</sup> of July. "A few week. It weren't that long. Maybe a month and a half between the first and the last."

H

Question. "So, between you first meeting him and the last time might not have been – was that a month and a half?" "Yeah, it might not even have been that long. It might have been a month, a month and a half. I'm not sure." In her evidence, she said the back end of

**A** June. The defendant, when he was interviewed, as I shall submit to you in due course, was trying to recall accurately and truthfully, said that it was about a month from the first to the last.

**B** Now, what are the consequences and inferences that you may wish to draw from the move of the goal posts? The first is that the prosecution obviously didn't give much proper thought when they framed the indictment in the first place to when these allegations of rape happened, if they happened. [Person A1] didn't even move to [Location C] until the 14<sup>th</sup> of May 2011. So, the selection of these rather generous dates was slapdash to say the least, wasn't it?

**C** The second and more significant inference or consequence is this, that by moving the dates, they have formally conceded the possibility that if anything of this kind happens, it may have happened after the 9<sup>th</sup> of July and before the 31<sup>st</sup> of July, and that is a problem in two respects because first of all, they stepped back from the proposition that this must have occurred between the back end of June and the 9<sup>th</sup> of July, and also because, when we look at **D** the dates, particularly from the 9<sup>th</sup> of July onwards, it looks very likely, I shall argue, that the defence can virtually rule out every single one of those dates by reference to events.

Can I say this? It's very difficult for a defendant to seek to prove a negative, that he hasn't done something. Sometimes, a defendant is in a fortunate position and can do that, **E** either because there's an eyewitness or because he's got an alibi. Now, if you are accused of a (inaudible) in Rochdale on a particular date at any time, which can be verified, and you've got 10, 20, 25 witnesses to say that you were at work in Bradford during that particular time, then you can prove that you were not the person, whatever may be said.

**F** Where you get a spread of dates, that's obviously much more difficult, and usually with a wide spread of dates, the defendant can't even attempt that task. But in some ways, this case is in fact different. I'm going to ask you to look at the timeline after lunch, but not now, because I see the time. But before I get there, and I'm going to invite you to make further notes after lunch, I just want to deal with what I call alibi witnesses, missing alibi witnesses.

**G** During this period, Grandmother - [Person SSSS], who you saw as a witness, will have stayed over and gone to that house, but we don't have precise dates, except for an acceptance that she would have stayed from time to time. We do have two – the 13<sup>th</sup> of July 2011 when she – she brought [Person A1] home from the laparotomy procedure at hospital, and probably the 20<sup>th</sup> of June, as that's within the period when the social workers are **H**

**A** recorded as calling early in the morning and [Person A1] wouldn't go to the door to see them, but they spoke to grandma.

**B** We're in the unfortunate position, or you are, if you are to avoid a miscarriage of justice, that you just don't know what dates grandma may have stayed, except she's probably stayed on some through this period, to fill in the gaps, and that's a little worrying. But, even more so, [Person K], we know for a fact on her evidence that she was a very close friend. On her evidence, she practically lived with [Person A1] when she was living in the Dewsbury house at the beginning of 2011 back into 2010, and she was still coming for periods to [Location C] and during the period with which we're concerned. But, apart from the 13<sup>th</sup> of **C** July, we don't have any dates. We do know that the 29<sup>th</sup> of July can't have been an occasion of rape because they were out together and nothing happened. But before that, she'd never set eyes on Mohammed Usman. So, any other dates in this period, which would be nice to know them, they haven't got them. When she was staying over, he can't have been there.

**D** There's a third witness, [Person H], who was at the house, somebody from the neighbourhood, apparently seen, referred to, but not called. But you can't necessarily speculate about what [Person H] might or mightn't have said, except that she said nothing adverse against the defendant. But in relation to the other two, and finally this before I come to the specifics, there's another witness who might have been able to supply helpful **E** information to you with evidence, and that is [Person A1]'s female solicitor.

**E** We know during this period that Family Court proceedings in relation to [Person S] were ongoing. It is likely, particularly given the involvement of [Person A1] [REDACTED] up to the 7<sup>th</sup> of July – sorry, [REDACTED] up to the 7<sup>th</sup> of July, that [Person A1] will have been seeing her solicitor. What a fabulous opportunity to tell her solicitor what had happened to **F** her. What an opportunity for her solicitor to say “You don't seem at all yourself this morning, [Person A1]. You don't seem to be in a right frame of mind. Is there anything wrong?” But of course, we don't have the evidence about that because it's legally privileged and it's locked in the family court.

**G** Now, after lunch, I'm going to come to specific dates during this period in an effort to show that it is very unlikely that the defendant did commit these offences alleged against [Person A].

JUDGE DURHAM HALL: Thank you very much, Mr Ferm. See you at ten past 2. Is that all right, ladies and gentlemen? Thank you. Thank you very much. See you all then.

COURT USHER: All stand.

**H** (Luncheon adjournment)

A

(The court reconvened at 14.11 in the presence of the jury)

JUDGE DURHAM HALL: Thank you. Now, where were we, Mr Ferm? You were moving onto the next topic, I ---

B

MR FERM: Yes, dates in the relevant period. You might like to have the timeline now (inaudible) this one, (inaudible), please, ladies and gentlemen. You'll note that during the period with which we're concerned on the 9<sup>th</sup>, this contains just three dates – the 28<sup>th</sup> of June, the 30<sup>th</sup> of July when nothing happened, and the 5<sup>th</sup> of September, outside the period by some weeks. What the defence have tried to do is to piece together a much more detailed account of [Person A1]'s life during that period. And if you haven't made notes already and you want to make notes on the timeline – you'll have to write small – I'm going to give you some further dates, if I may, all against a background of, if this happened, what do we see?

C

I've already referred to the 20<sup>th</sup> of June. The 23<sup>rd</sup> of June, it's recorded in [Person A1]'s medical notes that she sees a female healthcare assistant at her GP practice and took a blood test. More significantly, on the same day, however, there is an entry in the Barnardo's records. Barnardo's, of course, are a voluntary organisation, and it appears that [Person A1] had contacted them in relation to child C, who was connected with [Person S], no doubt, previously.

D

And it's recorded that at 11.30 – sorry, 11.30pm, I'm sorry, on the 23<sup>rd</sup> of June, she'd had a meeting with [REDACTED], who was a worker at Barnardo's, and there was – there appears to have been discussion between them, with [Person A1] asking for support. And, once again, of course, it almost goes without saying there's no reference to any problems about being the subject of a third rape. But more to the point, [REDACTED] appears to have been a little bit of a friend to [Person A1] because she agreed to collect her from a contact visit to [Person S] on Friday the 1<sup>st</sup> of July, and she did. That's the evidence. And again, there's no reference to any complaint from [Person A1].

E

F

So, on the 23<sup>rd</sup> of July, we've got two people who've seen her and to whom she makes no complaint at all, even though they're both, on the face of things, sympathetic females, and, more than that, nobody picks up on her appearance, really, and there we go.

G

I'm going to move to the next date, which may be relevant, and this is the 28<sup>th</sup> of June 2011 when again there were two events recorded. The first is that at 8.05am, she, with grandma, was at the surgery of [REDACTED] at the [REDACTED] practice, who [Person A1] already knew, and there was a discussion, a long chat, and [Person A1]'s attendance is noted at being at 8.04 in the morning, which might perhaps be an indication that grandma, who was

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**A** with her, was staying overnight with her to be up at that time to get her up and take her to the doctors. But again, with this female GP, there's no complaint.

**B** Later on the 28<sup>th</sup> of June, she receives a visit from [REDACTED], who's preparing a report for the proceedings in the Family Court in relation to [Person A1] and [Person S]. And it's one of quite a number of meetings, about seven or eight, the last being the 7<sup>th</sup> of July, to which (inaudible). You might have thought that seeing [Person A1] on a number of occasions over a few weeks, and the report, which [REDACTED] was compiling for the Family Court being important, that [Person A1] would have tried to establish a rapport with her, in which she could perhaps confide in her and give an explanation for why she wasn't doing so well with alcohol and drugs, if that was the case. **C** Again, we have nothing at all.

**D** On the 1<sup>st</sup> of July, there's the contact visit to which I've referred. On the 6<sup>th</sup> of July, it's recorded that DNA tests showed who [Person S]'s biological father was. You might have thought that was in some ways a relevant date if anything had happened on that date. And one - one of the problems that you and I face in looking at the dates in depth is that [Person A1] doesn't, in her (inaudible) to it happening on any date. She doesn't relate it to any date, and I would make the comment to you that that is, to say the least, surprising.

**E** On the 7<sup>th</sup> of July, the following day, she has the last meeting with [REDACTED] to discuss the report. Again, nothing. The 8<sup>th</sup> of July is the day before her 18<sup>th</sup> birthday, and that doesn't ring a bell as the occasion or one of them when she was raped, [Person A1]. The 19<sup>th</sup> of July is her 18<sup>th</sup> birthday, but her evidence was that he was not present. The 10<sup>th</sup> of July, the day after, might be termed welcome to the adult world day, but again we've got nothing.

**F** The [REDACTED] [REDACTED] would be the day before [Person S]'s second birthday. This is a mother having contact with [Person S] at a centre. Can you imagine that she wasn't seeking to buy presents for [Person S] for her second birthday, [Person S] being born on the [REDACTED] [REDACTED] 2009, and that that might bring it home to her that that was the occasion when she says that she was raped first or second time by Mohammed Usman? But nothing.

**G** [REDACTED] [REDACTED] 2011, [Person S]'s birthday, and the night before she goes into hospital on the [REDACTED] [REDACTED] was again with no expressed recollection that that's when it was, a sensitive date, you might think. If somebody was raped on their birthday, or on their child's birthday, you might expect that to stick, but it hasn't. And then on the [REDACTED] [REDACTED], she goes into hospital for a laparotomy, and grandma stays over with her on the night of the [REDACTED] [REDACTED], **H** and at the same time she's fitted with a coil.

A

She's in considerable pain on the following days, and her medical report – her records, I'm sorry, contain an entry for the 19<sup>th</sup> of July. Seen by a male doctor this time at the [REDACTED] practice, and she's prescribed medicine for bad pain. She had developed abdominal pain and nausea once her painkillers had run out following her laparoscopy, and that pain continued because she's back at the doctor on the 8<sup>th</sup> of August 2011, still complaining of similar pain, which clearly hasn't gone away.

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If you were raped and you've got stitches in you from a laparoscopy, which she had, because that's clear on the evidence, and you're in pain, and you've had a coil fitted, do you think that you remember that about the occasion and (inaudible) related to that, and the fact that the experience was even worse because you're in significant pain? But we don't have anything at all.

D

Well, the following day, the 20<sup>th</sup> of July, she is seen for a long assessment by a female psychologist, Dr Helen Roberts. In the course – of course, again, there's no complaint to Dr Roberts. One of the reasons we have female police officers now dealing with rape complainants, unlike in the past, is because people feel more comfortable describing this sort of experience to a female rather than a male.

E

Now, it's not that [Person A1] doesn't talk about being raped to Dr Roberts at all. She refers to an incident of rape earlier in her life, and she doesn't refer to anything recent or ongoing. And I say to you, that isn't (inaudible). The 22<sup>nd</sup> of July, we get a complaint from [Person A1] in the family proceedings, apparently, stating that a man she vaguely knew came into her home and smashed up her house. No report to the police. I think we can relate that back to the 21<sup>st</sup> of July 2011, the occasion when she talks in her DPD interviews about a man, [Person TTTT], who went to the house and smashing it up. So, it doesn't look as though it was on the 21<sup>st</sup> of July either, or the 22<sup>nd</sup>, does it?

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Then we get the 24<sup>th</sup> of July where there is a crime report about two women coming to the house. Bear with me while I find the page. Reporting that two girls had come to her house, put the window through. They've come in through the door and assaulted the caller. This, by the way is at ten to 8 in the evening on the 24<sup>th</sup>. They've cut her mouth open and cut her hair off apparently with scissors. Do you think that sexual intercourse with Mohammed Usman occurred on that night when she was in that state, when she'd called the police round? Do you think it happened in the succeeding days when she still would have had, you may think, this injury from being stabbed in the mouth? And, if it had, would she have told you about it?

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A

And so the events with which Mohammed Usman is charged are not related to any specific dates at all, and how difficult does that make for a man to try to show that he's innocent? What we have done, in a more in depth look at this period, and the prosecution appear to have essayed, is to show that during this time she was meeting numerous

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professionals, and there's not even a squeak about this.

C

And on the 24<sup>th</sup> of July when the police come round, might she had taken time to tell them then or get in touch with them later to say "Oh, by the way, I've got problems also, not just with these two girls, but with a man who comes round and keeps raping me, and I don't want him here, and his name's Mani." You don't get any of that at all. And there's no sign of any presentation which provokes an inquiry by these professionals.

D

Well, say the prosecution, these appointments were in the day, and it was in the evening that Mani came round. Yeah. That doesn't stop there being no sign at all in any of these dealings with professionals. That's if it happened as (inaudible). Now, please bear in mind again that I do not have (inaudible) on behalf of Mohammed Usman to show that it positively didn't happen. Perhaps that can never be proved, even in this unusual case where there are records and accounts (inaudible).

E

The 30<sup>th</sup> of July 2011, I'm going to move to. Although it's noted on the timeline, you've got more, in fact, in the documents, which I hope are behind divider 14. They're the police documents. Now, I said to you to begin with that [Person A1]'s account was inconsistent with other witnesses where it could be tested. On the 30<sup>th</sup> of July 2011, there are witnesses. [Person A1] is accompanied by her friend, [Person K], and her – the police come round to the house.

F

I'd like to comment at this stage in relation to the subject of asthma. It may not be the biggest comment in the world and I'm not saying it is, but how can you be in company with a man who suffers obviously from a degree of not insignificant asthma and not pick that up when he's exerting himself to force himself in any way, and not a mention of it in [Person A1]'s interviews. She was to say in relation to [Person K] that [Person K] witnessed events upstairs, and that is not confirmed at all by [Person K1]. Before then, I'd like to look briefly at the police documents in sequence.

G

H

And what do we find? (Inaudible) five features. One, it's her ex-boyfriend. That's untrue. Did the operator get that wrong or is it because she was prepared to say that he was to get the police round quicker to domestic violence. Secondly, there's no mention at all in this document of – or in the succeeding ones – of Mohammed Usman either kicking the door or threatening to kick the door.

A

Now, let's contrast that with what [Person A1] said in the course of her recorded interviews, and she said this. "I think it was at night, him being outside and me not letting him, and him trying to kick my door down and stuff. I think he might have gone to go and then changed his mind, and tried to get back in, and tried to kick my door down, and we ended up letting him in." Not only does that not appear in the police report, but it doesn't figure anywhere in the evidence of [Person A1], [Person K] (inaudible) either.

B

C

There is no mention of any strangulation or being pinned up against a wall (inaudible) strangulation in the police documents that you have. That's the third point. Fourthly, there's no mention of rape or any sexual apprehension, or fear. Finally, and fifthly, there's no mention of previous incidents. Let me read to you now something that [Person A1] also said in her evidence. "He kept saying that he wanted to beat me up and everything, and he kept saying 'But I like your eyes. One day I might just poke your eyes out so then they stop me,' or something like that. He were being really nasty and he were like strangling me against the wall and stuff like that. And I were shouting out and everything."

D

E

"And then he went upstairs and got into my bed while we were still downstairs, and me and [Person K1] were really tired, and we went upstairs into the other bedroom. There were a mattress on the floor in there, and we curled up on there together, me and her both fully dressed. And that's when I were saying to her, 'pretend to be asleep because I don't want to sleep with him.' And he were shouting my name, saying '[Person A1], get in here, get in here. Come to bed now.' And I were ignoring him." There's not a word in [Person A1] – in [Person K]'s evidence to corroborate that graphic detail at all. If he had said anything about threatening to strangle her, strangling her, or anything sexual, the police would, as DC Riley confirmed, have arrested him on the spot rather than take him home. But on their investigations, so far as they went, we don't have any mention of that at all.

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[Person K], in fact, does not even, on her evidence, go upstairs. The next thing is this. It's said that this started at 5 o'clock in the morning. I take that as a guestimate, but it might have been, or around that time. The 999 call isn't made till 7 twenty-five. What's going on in between? And we have a total lack of detail in relation to that from [Person A1], except the television was on and music was playing, and, similarly, from [Person K1].

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So, as I say, in relation to the 30<sup>th</sup> of July, which isn't an occasion when rape is alleged to have happened, but which is an opportunity to test – and it's about the only one – to test [Person A1]'s evidence against other witnesses. She's massively out of line and inconsistent, isn't she? And is that all right then? Does it matter? Can you still say, "Well, disregard all that." It's her – it still must be true because she said it.

**A** [Person K], briefly. She is an important witness in a number of respects, not least because we have from her what I'm going to describe as an evidence creep. In military terms, you may not – may know what's called by a mission creep. You send a mission of soldiers out to do something, and little by little they're doing more and more as the task enlarges. It's called mission creep.

**B** Well, here we've got evidence creep in the plainest way. Coming to that very shortly, I want to begin with [Person K]'s witness statement and her evidence. She's a very close friend. On what we know during this period, she's probably the closest friend of [Person A1] that [Person A1] had, and possibly vice versa, and they're a similar age, born within months in '93, and they've got similar shared experiences, not all of them good, obviously, with men. And it's obvious that they talk to each other about this because in her evidence, [Person K1] told you about how [Person A1] had talked to her about various things that named individual Asian men have done to her previously. But what doesn't appear at all in her witness statement is anything that relates to rape or sexual contact with Mohammed Usman.

**C** And this is what she said in her witness statement. "I recall there was a man called Mani who started coming to her house with some friends. This Mani was mostly drunk and violent." Now, that's not her evidence. It's [Person A1]'s because that's what [Person A1] told her. She met Mani on one occasion only.

**D** "I remember having to leave her house about 5.00am with [Person A1], and we were by this Co-op, which was near to where she was living. Mani arrived near to the house with his friends and told us to get in the house. Me and [Person A1] went to the house and [Person A1] was begging his friends to take him away. She went upstairs and he followed her, and he was standing on top of the stairs and pissing down the steps." She did not see that (inaudible), [Person K1] told her.

**E** "He was really drunk and violent, and he grabbed [Person A1] round the throat." She didn't see that. It's what [Person A1] told her that she was in this small house at the time. "[Person A1] managed to get away from him, so we ran out of the house and [Person A1] called the police." So, crucially, nothing at all in the aftermath of that, or before it, about Mohammed Usman having raped her. And this is the sum of [Person K]'s evidence, taken from interviews conducted in September, October 2015.

**F** Now, evidence creep. In this trial, unlike the last one, [Person A1] went on to say that her – sorry, [Person K1] went on to say – my fault – [Person K1] went on to say that [Person K1] – that [Person A1] had told her about something about her not wanting to have sex with Mohammed Usman. In fact, that again is inconsistent with the evidence of [Person A1]. In

**A** the last trial, I asked her this. “You didn’t say – that’s to [Person K1] – that he had raped you or had sex with you, did you,” to her. Answer. “No, I didn’t.” So, if [Person A1] hasn’t told [Person K1] on her evidence, how can [Person K1] now be saying that [Person A1] did, and that, I suggest, deserves the title evidence creep, something that we get in these courts,  
**B** because it must refer to them having spoken together subsequently and before her evidence in this trial was given.

Motive. It is commonplace for somebody standing here like me to tell the jury on behalf of the defendant that a defendant doesn’t have to prove the reason or motive why somebody should say very damaging things about a defendant. In this case, there might not even be a motive, or a reason. I’ve referred you to the way – the very unsatisfactory way in which the allegations against Mohammed Usman, at length, emerged, and I’m not going back over that ground. But at the time it emerged, she’d been in touch with the authorities, and you can’t ignore that. Now my complaint about compensation is not – and I repeat it – that it is a reason or a motive for her to deliberately make up a story against Mohammed Usman. It may not be that at all.

The problem that I have with compensation is the way in which [Person K1] – sorry, [Person A1] has dealt with it in the course of her evidence because it is legitimate and there is nothing wrong with someone who has suffered a wrong and sexual injury when she shouldn’t have claiming compensation. It’s not only legitimate. It’s right that that person should do so, and there should be no shame about it. But the problem here is that [Person A1] has tried to deceive you, and in this, in overenthusiasm, the prosecution have gone off piste in order to try to support her.

What she says is that she’s trying to give you the impression that she’s not interested in compensation and she’s unlikely to pursue it, not going to pursue it. And the prosecution have got involved here to try to support that because they said, “Well, no claim’s been lodged.” I say, what’s that got to do with the price of tomatoes down in the civil courts? Secondly, they say, “Well, [Person A1] hasn’t had any contact from Switalskis for 18 months.” You do recall, ladies and gentlemen, that we have been stuck at this stage since the last trial, which began in February last year and was aborted in April of last year because it overran, so in a sense there’s nothing new. Nothing has changed.

But the absolute killer blow to this, and the proof that you are being deceived lies in one simple fact that in a letter to the judge, Switalskis said that they are still acting. And we know, on the evidence of DC Riley, that the only thing she’s ever been in touch with them

**H**

**A** about is the compensation claim. And the fact that Switalskis are acting tells it all, for these reasons.

**B** When can a solicitor stop acting? If his client tells him not to act anymore then he can't act. There's no evidence from [Person A1] that she's ever taken that step. Secondly, if a solicitor thinks a case is hopeless and pointless to pursue, particularly in what would be unfunded litigation like this, because [Person A1] has no means, obviously, to fund an expensive case, then it tells the – or the female solicitor I think involved tells the client "Sorry, it's hopeless," and the solicitor ceases to act. In the – sometimes, he has to make application to the court to go off the court record as acting. There's no evidence that's happened, either.

**C** Thirdly, if the solicitor rocks up, instructed in September 2014, we're now four and a half years on, and has let a time limit slip by and not issued proceedings then that solicitor can no longer act for the client anymore because ---

**D** JUDGE DURHAM HALL: I fear, Mr Ferm, I don't – you're a civil lawyer. I'm not, thank goodness. But are you not now giving evidence? You are, in my judgment.

MR FERM: Then if I am, I defer to you on that.

JUDGE DURHAM HALL: Would you mind awfully deferring to me just on this point?

MR FERM: Yes, of course.

**E** JUDGE DURHAM HALL: It's fascinating but I – I – it's not really for the purpose of a speech. Anyway, I'm very sorry for interrupting. I don't think I've ever done that before.

MR FERM: I stand by points 1 and 2 because it's related to the evidence.

JUDGE DURHAM HALL: Yes, do that. Points 1 and 2, good.

MR FERM: Because I've got (inaudible).

**F** JUDGE DURHAM HALL: Point 3 ---

MR FERM: And I'm sorry, all right.

JUDGE DURHAM HALL: Not at all, not ---

**G** MR FERM: The lie, nonetheless, is still (inaudible), and why is she trying to mislead you about something that there's nothing to be ashamed about? And I don't know what the effect of that is on you as a jury. But if somebody tries to mislead in your ordinary life, are you comfortable with that? Is that all right then, or is it not?

**H** The defendant's interviews, ladies and gentlemen, and I'm approaching the end. Now, I've already referred to the background of – of how these interviews came about, how (inaudible). But they're worth looking at because I am going to suggest to you that these interviews bear every sign of a man who was being upfront and trying to tell the police a true

**A** account of what had happened five years before. And it begins, “Have you ever had any sexual contact with [Person A]?” “No.” “Do you know [Person A]?” No mucking about, “Yes.” Showing the photograph. “Yes.” Asked if he’d been to [Location C], he says yes. How long for? “About a month.” They’re not dissimilar periods.

**B** He tells the police that he was using cocaine at the time, a criminal offence. He had no need to, but he was upfront about it. He agreed that there was an occasion, the second occasion when he was with [Person K1] at her house in the evening on his own. He had no need to. But can we turn to page 8 of interview 1, please? On pages 8 and 9, he’s asked how long the second time was. About a week, two weeks, a week and a half. “How did that come about?” “She text me one day.”

**C** So, she asked him. Is there any reason why she would ask him to come down? Well, I think we may find one or a good guess at one. ““Oh, come down, we’ll just chill out for a bit and have a spliff.’ So, I went down. She had a spliff, then she wanted some coke, cocaine, and I go, ‘I don’t want to take it - take it.’ So, I got – I made her not to get it, so we just talked a bit and that’s it. She was telling me about her baby, who was in care or something like that. That’s about it. I just stayed about an hour, had some crisps, a sandwich,” and she got him the sandwich, I think, and overleaf he was able to talk about self-harming, the shared experience of drinking problems, which he had at the time and was going to rehabilitation. So, he gives evidence about the sort of things that – and he tells the police about the sort of things that you might think they may have talked about.

**D** He didn’t have to admit that he’d ever been there on his own, but he did. He came straight out with it, unprompted. He didn’t have to admit – and let’s look at page 7 – that he’d taken her phone number down (inaudible), but he did, and that has a ring of truth about it, doesn’t it? How would he invent that? How would he invent the previous – the page after about the second occasion, which also gives a clue about why - why the meeting between them at the house didn’t last that long because he wasn’t prepared to give her any cocaine or go and get out any cocaine.

**E** Why should he be criticised for trying to tell the truth? Is any of his account proved on the evidence to be wrong? Or is this a man who, as you can see, set out on the basis that he had nothing to hide, was going to answer every question, and gave the police the information, which they didn’t necessarily expect to have, which he gave.

**F** I’m going to conclude, members of the jury. What I’ve tried to do is to demonstrate to you that you must not apply double standards here. There comes a point at which you cannot tilt the playing field further to make allowances for the evidence of [Person A1], given

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**H**

**A**

everything that you know and that I'm not going to repeat. She is not on trial. It's the man in the dock, defendant number 10, who is on trial. Is the effectively unsupported, non-contemporaneous evidence of [Person A] enough, unrelated to any specific events in this

**B**

consistent denial that he's ever touched her sexually. Well, that's the issue for you, and I leave it with you. I'm just going to ask you to find that the evidence here just isn't good enough. Thank you.

JUDGE DURHAM HALL: Thank you, Mr Ferm. Thank you everybody.

**C**

**D**

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*eScribers hereby certify that the above is an accurate and complete record of the proceedings or part thereof having used our best skill and ability in its production.*

**E**

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