

SIR CLIFF RICHARD v BBC AND SOUTH YORKSHIRE POLICE

EXECUTIVE SUMMARY OF THE JUDGMENT OF MR JUSTICE MANN - 18TH JULY 2018

1. This is the occasion of the hand-down of my judgment in this case. It should now be treated as formally delivered. Because of the length of my judgment, and because of the significant public interest which I believe it will attract, I provide the following summary of its nature and effect. It is not part of the judgment and is provided by way of a summary only, and in the event of any conflict my judgment prevails. My judgment should be read in full for the full terms and effect of my decision on the many points that arise in this case.

2. In order to avoid any unnecessary or artificial suspense, I will say at this stage that Sir Cliff Richard succeeds in his claim against the BBC and will receive substantial damages.

3. In this case Sir Cliff Richard sues South Yorkshire Police (“SYP”) in privacy and under the Data Protection Act 1998 in respect of the disclosure in July 2014 by that force of the fact that he was under investigation for alleged sexual offences involving a minor, and of the date, time and place of an intended search by SYP of his English property. He sues the BBC in privacy and under the Data Protection Act for publicly disclosing those facts and covering the search in various broadcasts in August 2014. He claims that those wrongful acts caused him great personal distress, damaged his reputation and had a huge adverse impact on his life. Sir Cliff was the subject of the police investigation until June 2016 when it was announced that he would face no charge.

4. Before the trial SYP had already admitted liability and agreed to pay Sir Cliff substantial damages in the sum of £400,000, plus costs. SYP’s liability was therefore not the subject of the trial, but the trial did involve the question of whether South Yorkshire Police is entitled to claim a contribution from the BBC, and vice versa, in respect of damages for which they are both liable.

5. The main area of disputed fact in this case revolves around dealings between the BBC and SYP in July 2014. There was a dispute as to whether the police volunteered such information as it provided (the BBC’s case) or whether SYP was manoeuvred into providing it from a fear and implicit threat that the BBC would or might publish news of the investigation before the police were ready to conduct their search (SYP’s and Sir Cliff’s case). As my judgment reflects, I have accepted the SYP/Cliff Richard case on this point, and rejected the BBC’s case. I have found that SYP did not merely volunteer the material for its own purposes; it provided it because of a concern that if it did not do so there would be a prior publication by the BBC, a concern known to and probably fostered by the BBC’s reporter, Mr Dan Johnson.

6. So far as the main claim in this case is concerned, I find that Sir Cliff had privacy rights in respect of the police investigation and that the BBC infringed those rights without a legal justification. It did

so in a serious way and also in a somewhat sensationalist way. I have rejected the BBC's case that it was justified in reporting as it did under its rights to freedom of expression and freedom of the press. I did not find it necessary to rule on the claim under the Data Protection Act. Sir Cliff therefore wins on the privacy point and has established liability.

7. That infringement gives rise to a claim in damages. There are two types of damages – special damages and general damages. The special damages are certain specific claims arising out of what are said to be particular financial effects flowing from the infringement. The special damages points were raised by way of some sample instances on which I was invited to rule on legal causation. Sir Cliff has won on some of those samples, but not on others. I have not ruled on the amount of any particular special damages claim. That procedure is intended to clear away some of the issues for the purposes of future determination by the court, or to facilitate settlement. If those claims do not settle they will have to be determined in a later inquiry.

8. The general damages cover the general effect on Sir Cliff and his life. I have found that this was a serious infringement of Sir Cliff's privacy rights, in terms of what was disclosed, in terms of the manner of disclosure and in terms of the effect on Sir Cliff. The damage caused was substantial and I have assessed basic general damages at £190,000. There is also a claim to aggravated damages, in which Sir Cliff sought to extend his damages claim by reference to what were said to be various aggravating features. I have rejected all but one of those aggravation claims. The exception is the claim arising out of the BBC's nominating its story for an award at the Royal Television Society Awards as the "Scoop of the Year" (which, incidentally, it did not win). I have found that that merits aggravated damages which I have assessed at £20,000. Thus Sir Cliff recovers £210,000 by way of general damages.

9. Most of the damages claimed in this case are damages which have been caused by both the BBC and SYP, which gives rise to the need to determine how those damages should be borne as between those two parties. That is the function of the cross-contribution claims. SYP said that the BBC was much more responsible than it was and proposed that liability for the damages ought to be borne in the proportions 20%/80% as between the police and BBC respectively. The BBC's case, at its highest, was that it ought not to have to contribute at all and that the police ought to bear all the damages. I have rejected both parties' extreme cases but nonetheless decided that the BBC was much more responsible than SYP, and have determined that the damages for which both parties are responsible (which does not include the aggravated damages) ought to be borne 35%/65% as between SYP and the BBC respectively, principally on the footing that the BBC was a significantly greater contributor to the damage that was caused.

10. That is a summary of what I have decided in my judgment. Because of the length of that judgment it is not being made generally available in paper form, but will now be available, together with this executive summary, online at www.judiciary.uk; and soon (without this summary) at www.bailii.org.