



JUDICIARY OF
ENGLAND AND WALES

The Queen

-v-

Shahid Mohammed

Sentencing Remarks of Mr Justice Spencer

Leeds Crown Court

7th August 2019

1. Shahid Mohammed, I have to sentence you for eight counts of murder and for an associated offence of conspiracy to commit arson with intent to endanger life. You committed these murders 17 years ago, in May 2002. With others you took part in setting fire to a terraced house in Huddersfield in the middle of the night, 40 Osborne Road, the home of the Chishti family. The downstairs front window was smashed and four petrol bombs were thrown into the house. Two to three litres of petrol were poured through the letter box and lit. Very soon the house became a blazing inferno.
2. There were eleven people asleep in the house, including five children, all girls, whose ages were 13, 10, 7, 2 and a baby of only 6 months. All five of the children died in the fire. So did their mother, aged 35, and their uncle, Ateeq, who was aged 18. Their grandmother, aged 54, jumped from an upstairs window as the flames engulfed her. She died a week later from the head injuries she sustained in the fall. Three other members of the family managed to escape, and although they bravely tried to rescue the others despite their own injuries, it was an impossible task. Experienced fire fighters who attended described it as the worst house fire they had ever seen.

3. The jury convicted you of these murders unanimously yesterday after a four week trial, on overwhelming evidence. Your three co-accused were tried and convicted of homicide 16 years ago in June 2003. One was convicted of murder; two were convicted of manslaughter. All three were, like you, convicted of conspiracy to commit arson at 40 Osborne Road with intent to endanger life. By the time of that trial in 2003 you had fled to Pakistan. You failed to surrender to your bail in July 2002; you evaded justice for the next 12½ years until you were tracked down and arrested in Pakistan in January 2015. You fought extradition proceedings in Pakistan at every stage; it was not until October 2018 that you were finally returned to the United Kingdom to face trial.
4. For murder there is only one sentence, life imprisonment. That is the sentence I shall pass in due course for each of these murders. But I am also required by law to fix the minimum term you must serve before you are eligible even to be considered for parole. That is not straightforward in your case because these murders were committed so long ago, before the provisions of Schedule 21 to the Criminal Justice Act 2003 were in force.
5. Had you not absconded in 2002 you would have been tried and convicted along with your co-accused and sentenced in 2003. That would have brought closure for the Chishti family. Instead they have had to live for all these years with the knowledge that one of the men principally responsible for these wicked murders had not been brought to justice. Now at least they have that closure. They have faced the ordeal of this trial with outstanding dignity. Old psychological wounds have been opened up once again, as the moving impact statement from the family confirms. The lives of eight precious family members across three generations were wiped out that night. Those left behind to grieve will never come to terms with their loss. Words cannot express the depth of their pain and distress.
6. You had a longstanding grievance against Ateeq. He was the best friend of a young man called Saud who had formed a relationship with your sister, Shahida, a relationship of which you and your brothers strongly disapproved. Saud and Shahida had met at college. They became close, and although their relationship remained platonic you refused to accept that and chose instead to believe unfounded rumours. In an attempt to frighten him off, you and your brothers drove Saud onto the moors near Huddersfield

on 13th October 2001 and beat him up very badly. You were charged with assaulting him but you never stood trial because you had absconded by the time the case was heard. You admit that you and your brothers were guilty of that serious assault.

7. When Saud and your sister moved up to Newcastle a few weeks later, you went to great lengths to find them, visiting and taxing their friends in Huddersfield who might know where they were hiding away. One of the friends you visited was Ateeq. You went to his home at 40 Osborne Road one night. He was too afraid to come to the door. His older brother spoke to you, and his mother. They told you Ateeq did not know where Saud and your sister were. I am quite satisfied that you made threats on the doorstep, intended for Ateeq, including “You don’t know what sort of people we are”. You made it clear that there would be serious consequences if you discovered that Ateeq did know their whereabouts after all.
8. On 20th December 2001 you and two of your brothers went mob handed with others up to Newcastle where Saud and your sister had been located. By now she and Saud were lawfully married. She was 18 years of age. They remain happily married to this day. One of those with you playing a leading role in Newcastle was your friend Shaied Iqbal, the man subsequently convicted of these murders, although it was no business of his at all. The intention was to kidnap your sister and bring her back to Huddersfield. Your group were armed with weapons, including an imitation hand gun which was held to the head of Saud’s father to reinforce the threats that were made. Shahida had no choice but to go with you. You were arrested for kidnap but again you did not stand trial because you had absconded by the time the case was heard. Shahida could not face giving evidence against her own brothers. Instead a charge of conspiracy to commit violent disorder was laid. There were guilty pleas and a conviction; sentences of imprisonment were imposed. You escaped justice for your part in that criminal act as well, which you now admit.
9. In the course of the criminal venture in Newcastle, your brother and Shaied Iqbal confiscated and examined the phones belonging to Saud and his father. Saud’s phone must have revealed the extent of the contact between Saud and his best friend Ateeq. In the early hours of the next morning threatening phone calls were made to Ateeq’s

home by one of your brothers and by Shaied Iqbal, in which the message was “We have got our sister back, and now we are coming for you.”

10. You claim that once Shahida had made her peace with her family over the marriage, and a ceremony had taken place in February 2002 by which her mother gave her away with her blessing, any animosity on your part towards Ateeq ceased. Nothing could be further from the truth. I am quite satisfied on all the evidence that you continued to nurse a deep seated grievance against Ateeq for helping Saud and for refusing to reveal the whereabouts of Saud and Shahida. You saw this as disrespecting yourself and your brothers.
11. There were further threats and intimidation of Ateeq over the next few months right up to the night of the fire. The distinctive black left hand drive BMW which you and your brothers drove was spotted in Osborne Road, where it had no legitimate reason to be. Ateeq received nuisance phone calls. He constantly had to look over his shoulder. His close friend Yasin Hussain gave compelling evidence of the fear which bedevilled Ateeq from day to day all those months, fear that you and your brothers would carry out your threats of revenge. Ateeq told Yassin of one call he had received early on from you in which you told Ateeq: “You lied to me, you are going to die”. In April 2001, only weeks before the fire, you told one of your own friends that you hated your sister for the shame and disgrace she had brought on the family. That is a measure of the true depth of your animosity towards Ateeq as well.
12. Another event, much closer to the night of the fire, gave rise to a further motive and was the immediate trigger for the fatal arson attack against Ateeq. Shaied Iqbal was himself in a culturally inappropriate relationship with a girl called Mobeen, of which her father had been unaware. Through information passed by Ateeq to Saud and thereafter to Saud’s father, Mobeen’s father was informed of the relationship on the afternoon of Friday 10th May, some 36 hours before the fire. This enraged Shaied Iqbal when he learned of it. His hostility was directed at Ateeq.
13. The following evening, Saturday 11th May, Shaied Iqbal enlisted the help of Nazar Hussain and Shakiel Shazad in a plan to teach Ateeq a lesson. They were the two co-accused ultimately convicted of manslaughter. Petrol was purchased and brought to Sam’s Autos where petrol bombs were constructed late at night by filling milk bottles

with petrol and adding cloth wicks. The bottles were also filled with metal nuts as ballast, to increase the weight of the bottle so that it would more easily smash any window at which it was thrown. At the time it was said by those making the petrol bombs that when the bottles broke the nuts would explode in every direction. In fact the effect was to spread the fire more widely throughout the room because the petrol retained in the thread of the nuts burned for longer when they exploded and went everywhere. No fewer than 38 such nuts were recovered from the scene by the fire investigators.

14. You were not present when the petrol bombs were being constructed but you soon knew about them. I am quite sure on all the evidence, including the pattern of phone calls between you and Shaied Iqbal that afternoon through until midnight, that you knew perfectly well that he was planning a revenge arson attack on Ateeq that night and that you were fully in agreement with it. You and he both had a strong motive to get back at Ateeq and teach him a lesson. Shaied Iqbal's determined hostility that night presented you with the ideal opportunity.
15. Whatever plan Shaied Iqbal may have suggested to anyone else at Sam's Autos that night, I am quite sure on all the evidence that by the time you and Shaied Iqbal arrived in the vicinity of Osborne Road you knew perfectly well that the plan was to firebomb the house. There had been reconnaissance on two occasions late that night, to check whether there were still lights on in the house. It was no coincidence that you travelled with Shaied Iqbal to the scene in the car which contained the petrol bombs and the can of petrol. Any suggestion that the intention was only to attack Ateeq's car, or his family's cars, does not bear scrutiny. Ateeq did not even have a car; none of you knew which of the cars parked in the street belonged to his family. Four petrol bombs and two to three litres of petrol would not have been required to set fire to a car.
16. You and Shaied Iqbal, together with Nazar Hussain and Shakiel Shazad, made your way through the alleyway from Clement Street into Osborne Road. The four of you were disturbed briefly by a member of the public, but that did not deter you. I am quite sure on all the evidence that you were one of the four at the house who actively took part in some way in the joint activity of smashing the window, throwing the firebombs into the lounge, and pouring petrol through the letterbox and lighting it. It was just

before 2 o'clock in the morning. You knew that it was a family home. You knew there were people asleep in bed, including Ateeq, even if you did not know how many. You knew that the stairs were directly behind the front door, and that any chance of escape for those trapped upstairs would disappear once the staircase was alight. By the jury's verdict, at the very least you intended that one or more of the occupants of the house should suffer really serious injury. I am quite sure on all the evidence that you intended Ateeq should be killed.

17. After the fire you continued to associate with Shaied Iqbal next day, confirming that you were in it together all along. You calmly reported for your community service at 9 o'clock that Sunday morning. In the afternoon, having been summoned from your community service by Shaied Iqbal and knowing that the police had already been looking for you both as prime suspects, you went to the police station together and submitted to being arrested. You had not at that stage thought up the untruthful account which you were to present to the jury. For the most part you said no comment in interview over the next four days.
18. You were released on police bail to a date in July pending further enquiries. You were already on court bail twice over, for the assault on Saud in October 2001 and for the kidnapping in Newcastle in December 2001. It is now apparent from your passport that you left the country and fled to Pakistan on 20th May 2002, only days after you were bailed. The next year on the internet you followed the ensuing trial of your co-accused with great interest. I am sure it is no coincidence that the defence you advanced before the jury was very similar to that put forward by Shakiel at the original trial, namely that you were acting as lookout for the other three, but only in relation to a plan to set fire to cars, not the house.
19. I am required by the provisions of the Criminal Justice Act 2003 to approach sentencing in your case in two stages. That is because these murders were committed before the provisions of the Act came into force. First, I am required to determine in accordance with Schedule 21 to the Act the appropriate minimum term you should serve. But second, Parliament has prescribed that I am required by paragraphs 9 and 10 of Schedule 22 to the Act to ensure that I do not specify a minimum term which, in the opinion of the court, is greater than that which you would have been directed to serve

under the practice followed by the Secretary of State before December 2002. That is to ensure that there can be no breach of Article 7 of the European Convention on Human Rights which prohibits the imposition of a heavier penalty than the one which was applicable at the time the offence was committed.

20. Approaching the matter in this way, the first stage is to decide what minimum term would have been appropriate if these murders had been committed after the 2003 Act came into force. The appropriate starting point would have been 30 years under paragraph 5 of Schedule 21, because there were murders of two or more persons. Here there were eight murders. I bear in mind that there is authority that an arson murder resulting in only one death is sufficiently serious to justify a starting point of 30 years: see *Jones* [2005] EWCA Crim 3115.
21. Next I have to decide whether there are aggravating or mitigating factors which require departure from that starting point. There are several aggravating factors.
22. First, there was a significant degree of planning and pre-meditation. I am satisfied that the plan to attack the house did not happen spontaneously only when you arrived in the vicinity of Osborne Road. The plan to which you and Shaied Iqbal were party was hatched earlier that night and ruthlessly executed.
23. Second, several of the victims were particularly vulnerable through age. There were five children trapped upstairs even though you may not have known it. Three of them were under the age of 8 years.
24. Third, there was horrific mental and physical suffering endured by all eight victims before death. One witness spoke of seeing someone upstairs banging on the window with the flames behind them. The grandfather who was rescued could hear the children screaming upstairs. He was not the only one. Abdul Majeed, who witnessed the fire from the house across the road could hear Ateeq screaming upstairs in the box room. Those who survived also suffered serious burns and prolonged breathing difficulties from smoke inhalation.

25. Fourth, you committed these murders whilst you were on bail twice over for other offences of violence, and whilst you were subject to a community order and due next day to carry out unpaid work as required by that order.
26. Fifth, you absconded and evaded justice for 16 years, grossly aggravating the distress of the family of those whom you murdered.
27. Sixth, and very importantly, there were eight deaths.
28. Turning to mitigating factors, although it is submitted on your behalf that there was no intent to kill, I reject that suggestion. I am quite sure your intention was to kill Ateeq at least. In any event, death was such an inevitable consequence of setting fire to the house, as you admitted in the witness box, that there can be no mitigation under this head.
29. The only mitigating factor of any potential significance is your age at the time of the offence. You were 19 years old, two months short of your 20th birthday. You were the youngest of the four convicted of homicide. Shaied Iqbal was 25, Nazar Hussain 23 and Shakiel Shazad 22. But you were not an immature young man. You were in the process of setting up your own car valeting business. You drove around ostentatiously in a variety of cars shared with your older brothers. You had accumulated a criminal record which included possessing a knife in a public place, taking a vehicle without consent, and driving whilst disqualified. You admit that you had committed the serious offences of assault and conspiracy to commit violent disorder for which you were on bail when you fled to Pakistan. You told the jury that you were hot headed back in 2002, could lose your temper easily, and could be physically aggressive and violent.
30. You are now 37 years old. In Pakistan you made a new life for yourself. You married. You have four children. You have enjoyed for all these intervening years the very things of which you robbed those whom you murdered. There can be no mitigation in your personal circumstances.
31. You have shown no real remorse. It was telling that when you claimed in your evidence before the jury not to have known until the next morning that it was the house that had been set on fire rather than cars, you were angry with Shaied Iqbal not because people had been killed but because it was likely to come back to you and your brothers.

32. Taking all these factors into account, in my judgment, had these murders been committed after the 2003 Act came into force, the appropriate minimum term in your case would have been 38 years. I note, by way of comparison, that this was the minimum term upheld by the Court of Appeal in a similar arson case in 2014 involving three murders and two attempted murders: *Muhammadi* [2014] EWCA Crim 817. I also have regard to the recent well publicised arson case at Leicester Crown Court this year, *Aram Kurd*, involving five murders, where a minimum term of 38 years was imposed, and the Court of Appeal refused leave to appeal against sentence.
33. Shaied Iqbal was sentenced for these same murders in 2003 by the trial judge, Mr Justice Andrew Smith. He considered, having regard to then current sentencing levels, that the appropriate minimum term for Shaied Iqbal would have been 35 years.
34. The second stage of setting your minimum term requires me to assess the length of the minimum term which the Secretary of State would have notified in your case under the practice followed before December 2002. That will impose a ceiling on the minimum term I am permitted by law to impose. This is not a straightforward exercise. I have followed the guidance in *Sullivan* [2005] 1 Cr App R (S) 67. The relevant principles are restated in Part VII of the Consolidated Practice Direction at section N.
35. Where, as in this case, a murder was committed before 31st May 2002 the best guide to what would have been the practice of the Secretary State is the letter sent to judges by the Lord Chief Justice, Lord Bingham, on 10th February 1997. I am satisfied that yours would have been treated as a very serious case justifying a very substantial departure from the normal starting point of 14 years for what might be described as an “unexceptional” murder. Of the factors identified by Lord Bingham as likely to call for a more severe sentence, the following are particularly relevant: first, this was a planned revenge killing; second, the murder involved the killing of children; third, there were multiple killings, eight in total.
36. In respect of Shaied Iqbal, under the prevailing practice at the time, Mr Justice Andrew Smith recommended to the Secretary of State that the minimum term Shaied Iqbal should serve was 22 years. That recommendation was notified to Shaied Iqbal on 28th October 2003. Shaied Iqbal was not, however, notified of the minimum period which,

in the Secretary of State's view, he should serve. Accordingly his case fell within paragraphs 5 to 8 of Schedule 22 to the 2003 Act, and the Secretary of State was required to refer his case to the High Court for a final decision on the minimum term which Shaied Iqbal should serve.

37. That determination was made by Mr Justice Andrew Smith and set out in a very full and closely reasoned judgment dated 13th March 2007: [2007] EWHC 516 (QB). He concluded that the Secretary of State would have been likely, under the practice followed by him before December 2002, to have notified Shaied Iqbal of a minimum period of 22 years. The minimum term of his life sentence was therefore set at 22 years, less days served on remand. In reaching that decision the judge considered carefully a number of earlier cases in order to gauge the likely period the Secretary of State would have notified: see paragraph 30 of the judgment, and the table of cases referred to. The cases were from a Ministry of Justice database prepared for the Court of Appeal in connection with the leading case of *Sullivan*.
38. The Attorney-General sought to challenge that determination as unduly lenient by a reference to the Court of Appeal, but the application was withdrawn on technical grounds. No jurisdiction existed for such a review because paragraph 15 of Schedule 22 applies to orders made under paragraph 3 of the Schedule, not under paragraphs 5 to 8.
39. On behalf of the Crown, Mr MacDonald QC submits that I am not constrained by Mr Justice Andrew Smith's conclusion in respect of Shaied Iqbal in deciding what your minimum term should be. He submits that there are important differences in your case, particularly the very lengthy period of your absconding and evading justice, and the fact that you were on bail for two serious offences of violence when you committed these murders.
40. On your behalf Mr Lakha QC submits that your minimum term should certainly be no longer than Shaied Iqbal's, and should in fact be shorter, principally because you were 5½ years younger than Shaied Iqbal, but also because your involvement in the planning and execution came later than his. Mr Lakha submits that there is a danger of an unfair disparity between your sentence and his.

41. I have considered these submissions very carefully. I am not persuaded that there is any reason to take a significantly different view from Mr Justice Andrew Smith as to the likely period the Secretary of State would have notified, 22 years. However, in my opinion it is likely that your period would have been a year longer, in order to reflect that you were on bail twice over when you committed these murders and had absconded and evaded justice for many years. Those factors would have more than outweighed the difference in age. In my view your minimum term must therefore be set at 23 years. That does not in my view result in any unfair disparity.
42. A minimum term of only 23 years is, of course, very significantly less than it would have been had the offences been committed 18 months later when the 2003 Act had come into force, but that anomaly cannot be avoided, however unsatisfactory it may seem.
43. The final question I have to decide is whether all or any of the time you spent in custody in Pakistan awaiting extradition should count towards your minimum term. Again, this is not a straightforward matter.
44. I am required to apply the provisions of s.269(3) of the 2003 Act. The minimum term must be “such as the court considers appropriate” taking into account (a) the seriousness of the offence and (b) the effect of s.240ZA (crediting periods of remand in custody) if the court had sentenced you to a fixed term of imprisonment rather than a life sentence.
45. You were extradited from Pakistan to face trial for these offences on 3rd October 2018. You had been arrested in Pakistan in respect of these offences on 22nd January 2015. You were in custody in Pakistan pending extradition for a total of 1,350 days. Thereafter you have spent 312 days on remand in this country.
46. There is no reason why the days you have spent in custody on remand in this country should not count towards your minimum term. That is the usual practice. However, very different considerations apply, in my judgment, in relation to the period you served in custody on remand in Pakistan.
47. Section 243 of the 2003 Act requires the court to credit time served in custody abroad pending extradition, but it applies only to fixed-term prisoners. It does not apply directly

in your case; you will be serving a life sentence not a fixed-term sentence. However, in deciding what minimum term would be appropriate in your case, s.269(3) requires me to “take into account” the effect of the provisions which would have applied had you been serving a fixed-term sentence. In that event the court would have been obliged to specify the number of days for which you were kept in custody in Pakistan while awaiting extradition. Those days would then have automatically been credited against your sentence.

48. Those provisions have been in force since 2012. Prior to that the court retained a specific discretion whether or not to allow days served on remand, here or abroad, to count towards sentence if, in the opinion of the court, it was “just in all the circumstances” not to give such a direction: see s.240(4) of the 2003 Act. Although that provision was repealed and replaced by s.240ZA, I consider that the approach of the Court of Appeal in earlier cases is nevertheless relevant in the present situation.

49. In particular, in *Noye* [2013] EWCA Crim 510 the Court of Appeal declined to interfere with the refusal by the sentencing judge to give the defendant credit for 9 months served in custody on remand in Spain pending extradition for murder; the defendant had deliberately fled from the UK in a well organised and sophisticated plan to evade justice; he had successfully evaded justice for some time whilst staying abroad; and when brought before the courts abroad he contested the extradition proceedings every inch of the way putting up a totally false story.

50. The picture in your case is very similar. You challenged on appeal the Enquiry Magistrate’s decision to order your extradition made in April 2016. When that appeal was refused in June 2016, you challenged that decision in turn by a further appeal which was also refused in May 2018. All this took a great deal of time. You were detained in prison in conditions which were very harsh. The delay was of your own making. Had you returned voluntarily to the United Kingdom you would not have spent over 3 ½ years in prison in Pakistan. That was your choice. You told the jury that you always intended to return to the UK one day to tell the truth about what happened and to clear your name, but as the years went by it became more and more difficult.

51. In upholding the sentencing judge's decision in the case of *Noye*, the Court of Appeal respected the discretion vested in the judge under s.240(4) to decide whether it was just to give credit for days served on remand abroad awaiting extradition. Although s. 240(4) has been repealed and replaced by s.240ZA, it remains for me to decide under s.269(3) what minimum term is "appropriate". It was emphasised in *Sullivan* (at paragraph 11) that this means the judge retains a discretion in determining the period of the minimum term notwithstanding the statutory guidance. The decision remains that of the judge. I reject Mr Lakha's submission that such a discretion no longer exists.
52. Mr Lakha submits that you should not be penalised for exercising your rights in Pakistan. Material has been placed before me belatedly from lawyers in Pakistan suggesting that even if you had consented to extradition, the process would still have lasted 2 years or so. Mr Lakha also prays in aid the severity of the conditions in which you were detained in prison in Pakistan as additional mitigation.
53. I have considered whether to allow some part of the time you spent in prison in Pakistan to count towards your sentence, but in the end the reality is that it was your choice to flee to Pakistan and your choice not to return voluntarily to face trial before extradition was necessary. In the exercise of my discretion in all the circumstances of this case I decline to allow you credit for any of the time you served in prison in Pakistan awaiting extradition.
54. That means that the minimum term you must serve will be 23 years from today, less 312 days served on remand in this country.
55. There will be a concurrent determinate sentence of 14 years on count 1, conspiracy to commit arson with intent to endanger life. That is the same sentence as your three co-accused received for that offence.

Stand up please

56. Shahid Mohammed, in respect of each of the eight counts of murder, counts 2 to 9, I sentence you to **life imprisonment**. You will serve a minimum term of **23 years less 312 days served on remand**. When you have served that minimum term it will be for the Parole Board to decide whether and if so when it will ever be safe to release you. If

and when you are eventually released you will remain on licence for the rest of your life, and liable to be returned to prison if you commit any further offence or breach the terms of your licence. On count 1 there will be a concurrent sentence of 14 years imprisonment. You may go down.