



Case No: 030LR948

IN THE COUNTY COURT AT MANCHESTER

The Civil Justice Centre
1, Bridge Street West,
Manchester

Date: 28 June 2024

Before :

His Honour Judge Bird

Between :

MR RIZWAN KHAN
- and -
THE CHIEF CONSTABLE OF GREATER
MANCHESTER POLICE

Claimant

Defendant

David Hughes (instructed by **Donoghue Solicitors**) for the **Claimant**
Elliot Gold (instructed by **Clyde & Co LLP**) for the **Defendant**

Hearing dates: 15 – 19 April 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 28 June 2024 by circulation to the parties or their representatives by e-mail and by release to the Judicial Website.

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His Honour Judge Bird :

Introduction

1. The Claimant (“Mr Khan”) was arrested on 9 May 2018. After interview, during which his solicitor was present, he was charged with offences contrary section 4(3) of the Misuse of Drugs Act 1971 (being concerned in the supply of class A controlled drugs). Bail was refused and he attended before the Magistrates Court on 11 May 2018. He was remanded to HMP Forrest Bank. On 8 June 2018 an application for bail made to the Crown Court judge was successful and he was released on conditional bail. On 26 July 2018 the prosecution was discontinued.
2. Mr Khan seeks damages from the Defendant on the basis that his detention up to the point when the magistrates’ court remanded him in custody was unlawful and in respect of his detention in prison thereafter. He pleads a right to damages as a result of false imprisonment, assault and battery, trespass, malicious prosecution, misfeasance in public office and aggravated damages. Part of his claim relates to psychological injury, specifically that the arrest led to post traumatic stress disorder.
3. The Claimant elected to proceed by way of trial by judge alone. I say more about this at the end of this judgment.

The Background

4. In 2017 Rochdale had a serious drug problem. Drug users were acquiring drugs through a series of drug lines, placing orders by text or call. One drug line was referred to as “Dappa”. The person who oversaw the line was also known as Dappa. It does not matter if the drug line took its name from the overseer or if the overseer took his name from the drug line. The fact is that the police were keen to shut down Dappa (the line) and arrest Dappa (the person).
5. Intelligence reports maintained by the Defendant record in August 2016 that Dappa was Rizwan Khan and that “Rizwan Khan [is] believed to be Rizwan Akhtar”.
6. On 8 June 2017, a vulnerable adult (“AB”) reported that a person she knew as Rizwan Khan, and who used the street name Dappa, had made threats to “*get the boys round*” if AB did not give him money. On 4 October 2017 AB reported that Dappa (who she said was about 28) had recently forced his way into her home and demanded to use it to prepare drugs for sale. Searches of the police OPUS system conducted by civilian handlers, revealed “*30 possibles for male on Opus in age range given*”. Later the same day AB called again and reported that Dappa was at her house. It was recorded that AB “*sounded very frightened*”. PC Gary Bell attended at AB’s house. He later recorded that AB told him “*the male in question*” (Dappa) was “*Rizwan Khan/Akhtar*”. AB told PC Bell she had known Dappa “*from old*” because he “*used to deal to her when she was an addict*”. There was a further call on 11 October 2017. This time it was reported that “*Rizwan*” had brought a 14-year-old boy to the house.

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7. AB contacted police again in December 2017 to report that Rizwan was leaving her home with a large quantity of drugs. She told police she did not know his home address but that he lived “*in the Newbold area*”. The civilian call handler noted that Rizwan Khan’s date of birth as 3 August 1992 and added: “*Rochdale male Asian filename: Akhtar, Rizwan*” and noted his last known address as 35 Sussex Street in Rochdale.
8. An intelligence report from February 2018 notes that “*Rizwan Akhtar who uses the street name Dappa is currently studying [for] a Masters in Chartered Accountancy at a university in Manchester*”. His address is again noted as Sussex Street.
9. PC Lutkevitch took a statement from AB on 1 March 2018. This statement is central to the claim. AB describes herself as a drug addict using methadone and crack cocaine. She explained she had known Rizwan Khan (or Dappa) for about 4 years. She described him as about 28 years old, around 6ft 3 inches tall, with very short hair, a trimmed beard, ‘*cock eyed*’ and of slim build. The Claimant does not fit that description.
10. On 9 May 2018, 3 known associates of Dappa, including a minor (“LS”) were arrested. The decision was then taken to arrest Dappa. Detective Sergeant Soutter made the decision and briefed a group of officers including PC Lutkevitch and DS Ashurst. The main briefing document (an important document) shows 18 telephone lines (or drug lines) one of which is identified as the Dappa line. It notes that Dappa “*uses [LS] (17-year-old and frequently missing from home) to deal [drugs] on his behalf. This association has been in place since 2017*” and “*individuals are bullied into driving for the pair or forced to hand over bank cards with threats being made of arson and the rape of female family members*”. The briefing refers to Dappa taking advantage of vulnerable persons (including AB but also others) and includes a clear photograph of the Claimant who is identified as living at the Sussex Street address.
11. Officers told me in evidence that the statement taken by PC Lutkevitch on 1 March 2018 was available for all to see in an “*open forum*” or folder at the time of the briefing and that officers were expected to be familiar with it. PC Lutkevitch was aware of the statement because he had taken it and DS Ashurst confirmed she had read it.
12. The Claimant was arrested by PC Lutkevitch at 15.20 on 9 May 2018 at his home in Sussex Street. He was handcuffed and taken to a police van, in which he was detained whilst his home was searched. A suitcase in his bedroom was found and opened. His mobile phone was located and sent away for forensic analysis. The results were not available for some time and certainly not at the time the Claimant was interviewed.
13. At some point after the arrest, but whilst the Claimant was still present, DS Ashurst attended the scene. After the arrest she was involved in the preparation of the file needed for the Claimant’s interview. She told me that the file included AB’s March statement.

Detention

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14. The Claimant arrived at Bury Police Station at 16.15. By that time the other 3 arrested persons (including LS) were in custody.
15. His detention was authorised by the custody sergeant (PS Jones) at 16.35. The custody record and detention log show that detention was authorised on the ground that it was necessary to obtain evidence by questioning and to secure or preserve evidence.
16. The Claimant's detention ought to have been reviewed by an officer of at least the rank of Inspector (subject to postponement) in the first 24 hour period within 6 hours, within 9 hours after that first review and then at subsequent intervals of not more than 9 hours. Any extension of detention beyond 24 hours would need to be authorised by an officer of at least the rank of Superintendent.
17. The first review was due at 22.35 on 9 May. PS Ash took over as custody sergeant at 18.49. at the time the custody log recorded that "there are numerous [detained persons] in custody at the moment and others waiting to be booked in. this may take a little time."
18. The log records at 22.26 that Inspector Ryecroft is aware of "the forthcoming review" but is "operationally engaged" so that "it will be at least 30 minutes before he can attend". The first review took place at 23.42. It noted that the review ought to have taken place at 22.35 and explained the delay on the ground that "no officer of review rank [was] available at the time...". The review was carried out by Inspector Ryecroft.
19. The second review was due at 07.35 on 10 May 2018. An entry in the custody log at 04.44 shows the review time was varied "in order to assist with operational efficiency" and took place at 04.43 by Inspector Wood over the telephone.
20. At 11.10 (as recorded in the custody log at 17.01) the 24 hours extension review (due at 16.15) was carried out by Superintendent Ruffle who authorised detention for a further 8 hours. It is agreed that this authorisation does not prevent the need for the third review.
21. The third review was due at 13.43 (9 hours from the previous review on 04.44). The duty solicitor attended at 15.03 and was given disclosure. Between 15.15 and 15.46 the Claimant was in conference with his solicitor.
22. The interview commenced at 16.03 and lasted for 45 minutes. It was conducted by PC Lawrence and PC Wilkinson. The Claimant's solicitor was present. The record of interview notes that reference was made to AB's 2 statements (a second statement was taken on the day of the interview). About 23 minutes into the interview the interview record shows:

"PC Lawrence referred to a phone call to police from [AB] on 18th October: Rizwan Khan wants to come in and bag up Coke. PC Lawrence referred to a statement from AB. The [Claimant] was reminded of his opportunity to give his version of events. PC Lawrence referred to a second statement from [AB]".

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23. The third review took place at 17.43 when the custody log records the reason for postponement as “*no officer of review rank available at the time*”. Inspector Ryecroft carried out the review in person.
24. After the interview (which ended at around 16.49) Detective Sergeant Ashurst was briefed by the interviewing officers so that she could prepare a report to the CPS. She was told that the Claimant had answered “no comment” to all material questions about his connection to AB and him being Dappa. She completed a written report to the CPS on all 4 detained persons: the Claimant, LS and the other 2 arrested before the Claimant.
25. In the section headed “*Summary of key evidence*” DS Ashurst asked the CPS to consider a number of charges: including modern slavery offences, harassment, using violence to secure entry, conspiracy to supply drugs.
26. In the section of the report headed “*Authorising supervisor’s comments*” she identified the Claimant as Dappa. The language used is clear and unequivocal. The report accepts that the “*key witness*” in the case against the Claimant is AB. There is reference to the police logs (which are “*included within the file*”) and to both of AB’s statements (the report asks the CPS to “*see statements*”). In the section of the report headed “*Defendant interview*” DS Ashurst provided an overview of the Claimant’s interview and indicated that parts of AB’s statement were read to him. The report continues (with the capitalised words appearing as they do in the report):

“It was put to KHAN that [AB] knew him well enough to know that his previous surname was AKHTAR which he had changed in 2006. It was put to KHAN that he had been using her address to bag up and weigh drugs. He was asked whether he disputed that this was him several times. KHAN ANSWERED NO COMMENT THROUGHOUT THE INTERVIEW.”

27. Under the heading “*Non-key evidence*” DS Ashurst referred to the issue of identity. It is important to note that DS Ashurst did not attend the interview and saw neither a transcript nor notes of it. She relied on what the officers who conducted the interview told her. She noted:

“on interview KHAN has been given every opportunity to dispute the ID. On each occasion he has replied “no comment”. Case law of R v McCartney 2003 relates to the holding of identification parades. The Judge ruled in this case “A suspect had to put identification on the table to trigger the provisions of the Code of Practice. It was not sufficient simply to give a no comment interview.” In addition to this the witness, [AB], has known KHAN for four years and knows him by name. This is significant as Rizwan KHAN, changed his named from Rizwan AKTAR so [the] previous criminal Intelligence would not be linked to him.”

28. At 18.51 DS Ashurst spoke to the CPS charging lawyer over the telephone. The call lasted until 20.21. It is notable that the charges specified by the Crown Prosecutor, and the charges actually put to the Claimant were limited to those related to the supply of drugs only. No modern slavery, harassment, using violence to secure entry

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or conspiracy charges were agreed to.

29. The Claimant was charged at 22.39 on 10 May and was refused bail. He attended before Manchester and Salford Magistrates Court at 9.30 on 11 May and was remanded in custody.
30. On 8 June 2018 Mr Khan made an application to the Crown Court for bail. The application was not opposed and was successful. The first and perhaps strongest point advanced in support of the application was that the Crown's case

"...rests [entirely] upon the statements provided to the police by [AB]. [AB] identifies Rizwan Khan as essentially being the male that has attended her address on a number of occasions with a view to furthering his drugs enterprise..."

Whilst the crux of the evidence against this defendant derives from those statements provided [AB], the defence will assert that this defendant has never met [AB], never been to her address, never spoken to her and simply does not know her. That is a very bold assertion to make by the defendant.

The defence case is that the police and CPS have simply arrested the wrong Rizwan Khan. To this extent we have today written to the crown and urged them to conduct a VIPER given the vehement assertions made by the defendant and noted above.

We have had the benefit of meeting with Mr Khan during conference and we can say with unwavering confidence that there is a striking contrast between the description provided by [AB] of the defendant and this defendant."

The Issues

31. The Claimant's case on false imprisonment (up to the point he was delivered to the police station) is about the lawfulness of the arrest. If the arresting officer had an honest suspicion that the Claimant was Dappa, and that suspicion had a reasonable basis, then that part of the claim for false imprisonment falls away.
32. The assault claim requires the Defendant to prove that the decision to handcuff the Claimant was reasonable.
33. As to the Claimant's detention at the police station, he suggests that the initial detention was unlawful because the custody sergeant did not form a view about the sufficiency or evidence on arrival. He suggests that his subsequent detention became unlawful because reviews were late and that the reviewing officer, themselves, ought to have made the review entries in the detention log.
34. To succeed in his claim for malicious prosecution, the Claimant must establish that he was prosecuted, that the prosecution was determined in his favour, that the

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prosecution was brought without reasonable and probable cause and that this was malicious. Reasonable and probable cause is established where there is “*an honest belief in the guilt of the accused based upon a full conviction, founded upon reasonable grounds, of the existence of a state of circumstances, which, assuming them to be true, would reasonably lead any ordinarily prudent and cautious man, placed in the position of the accuser, to the conclusion that the person charged was probably guilty of the crime imputed.*” (See *Herniman v Smith* [1938] AC 305).

Malice requires that the prosecution be brought for an improper motive (see *Stevens v Midland Counties Railway* (1854) 156 ER 480) and may be inferred from a lack of reasonableness. Where, as here, the decision to prosecute is taken by an independent prosecutor, malice is the deliberate suppression of evidence to lead those carrying on the prosecution to take a false view of the case (see *Riches v DPP* [1973] 1 WLR 1019).

35. In his opening submissions, the Claimant noted that the claim in respect of damages for misfeasance in public office was brought on a “belt and braces” approach.

The Evidence

36. I heard evidence from the Claimant. The Defendant called Sergeant Lutkevitch (as he now is), PC Bell, Mr Soutter (as he now is, having retired from the police), Sergeant Jones, and Sergeant Ashurst. I read the expert report of Professor Tom Burns prepared in respect of the Claimant’s claim for psychiatric damage.
37. I did not hear any evidence from the officers who interviewed Mr Khan or who provided the disclosure to Mr Khan’s solicitor. I did not hear from Mr Khan’s solicitor, and I did not have a full record of the Claimant’s interview.

The Claimant’s evidence

38. Professor Burns’ expert view is that the Claimant was “*extremely distressed by the circumstances of his arrest and his detention*” and that his anxiety lasted for the best part of 2 years. His view is based on the history provided to him by the Claimant. He summarises that history at paragraphs 7.4 to 7.6 of his report. There he notes (because the Claimant told him) that the Claimant was handcuffed, taken outside his house and in full view of his neighbours, and then taken to a police van. There, it is said, he was told he had been seen in the act of selling drugs which caused him to panic. He told Professor Burns that from the van he saw a police officer searching his room and opening a padlocked suitcase which he said contained certain items which, if seen by his family, would cause embarrassment.
39. In his witness statement, the Claimant says again that he could see officers searching his room from the police van and that the suitcase was left unlocked after being searched so that his brothers, when attempting to tidy up, saw the embarrassing articles. His pleaded case is that this discovery led the family to “*shun*” him. Professor Burns refers to the family “*disowning*” him.
40. Despite the clear picture painted in the pleadings, the version of events given to Professor Burns and the Claimant’s witness statement, the Claimant gave a wholly

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different account in the course of his evidence to me. He immediately accepted that he could not see his room from the van. Further, when reminded that his bail application highlights the fact that his family were supportive, he also accepted that he had not been shunned (or disowned) by his family. It was put to him that he had deliberately misled Professor Burns to increase the value of his claim. Again, the Claimant accepted that was the case.

41. It was suggested to the Claimant that during the 31-minute conference between 15.15 and 15.46 on 10 May 2018, after it was recorded that disclosure had been given, he must have been told about the AB statement. The Claimant denied that was the case but accepted that parts of the statement were read to him. He asserted (saying he was “*convinced*”) that PC Lutkevitch interviewed him. Again, that assertion is plainly wrong.
42. For the reasons I have set out, and because I formed the view that the Claimant was prepared to accept most things that were put to him without any real thought, I formed the view that he was not a reliable witness.
43. During the course of his evidence, and because he made a number of key concessions without any apparent concern, I asked the Claimant if he was having any difficulty in understanding the questions being put to him. He told me he had no such difficulty. Neither was there any suggestion that the Claimant was neurodiverse or was dealing with any learning disability. The questions he answered were put clearly, fairly and using plain language. On top of these points, the Claimant is clearly an educated man. In support of his bail application, he told the judge he had graduated from Manchester Metropolitan University in 2016 with a “*higher second degree in Accounts and Finance*”. His unchallenged evidence is that at the time of arrest he was “*at home revising for an upcoming accountancy exam*”. I am satisfied that he had no difficulty in understanding the questions.

The Defendants’ evidence

44. In contrast to the Claimant’s evidence, I found the Defendant’s evidence reliable and consistent.
45. Sergeant Lutkevitch in particular was an impressive and important witness. I formed the view that he came to court to give accurate evidence and was willing, when appropriate, to make concessions that might be held against him or the Defendant. He accepted that the approach taken to early complaints made by AB was unacceptable and that AB had a right to expect more from the police. In my view he was right to make that concession. AB’s allegations were of the most serious kind of abuse of a vulnerable person. I accept that good practice now would mean that such complaints would be dealt with differently. He also accepted that the MG5 form (the document used to summarise the case for the first appearance before the magistrates) should have contained reference to the description of Dappa provided by AB but did not. I regard these concessions as important indicators of his truthfulness.
46. He told me that at the time of the arrest there was evidence to identify the Claimant as Dappa beyond the first AB statement. He referred to the photograph in the intelligence

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briefing and the Claimant's address. He noted that numerous intelligence reports suggested that Dappa and the Claimant were the same person. I formed the view that he regarded the arrest as nothing out of the ordinary but had properly applied his mind to the decision of whether or not to arrest.

47. He told me that he arrested and cautioned the Claimant once he had identified himself and that he was co-operative. He told me that he had made the decision to handcuff the Claimant because of the serious nature of the offences. He suspected that the Claimant (or Dappa) had in the past been violent, as AB had reported, and was concerned that he should not be permitted to wander around freely, particularly because there might be weapons in the house. He told me that he had not told the Claimant that he had seen him selling drugs. I accept Segreant Lutkevitch's evidence over the Claimant's wherever there is a conflict between the two.
48. I heard from PC Bell. He visited AB in October 2017 after she had reported that "Dappa" had been at her house. He recorded after speaking to her that Dappa was in fact Rizwan Khan and also known as Rizwan Akhtar. I accept this evidence that that information came from AB.
49. I heard from former Detective Sergeant Soutter. He led the intelligence briefing on the morning of the Claimant's arrest. He told me that the description of Dappa provided by AB in March 2018 was not regarded as definitive. What appears to have struck DS Soutter, and other officers, was the fact that only one person in the area (the Claimant) had been known by each of the names Rizwan Khan and Rizwan Akhtar. He told me that he honestly believed that the Claimant was Dappa. Mr Soutter struck me as a plain speaking and straightforward police officer who took his responsibilities seriously. I accept his evidence.
50. I heard from Sergeant Jones, the custody sergeant who authorised the Claimant's detention. It was suggested to him that he ought to have reviewed the evidence against the Claimant to determine if his detention was lawful. He told me he was satisfied that further investigation was required and so authorised detention. I do not find that answer surprising. He told me that there would be cases when he would conclude that further investigation was not needed and so he would not authorise further arrest. He gave the example of someone who had accepted they had been in possession of cannabis. The matters that brought the Claimant to the custody suite were very different from such a case.
51. Sergeant Louise Ashurst told me that she went to the Claimant's home at some point on the day of his arrest. Her main function was to prepare the relevant file for the interview and to liaise with the CPS. She was not directly involved in the interview. She told me that she honestly believed what she told the CPS. She said the combination of names used by Dappa (according to AB) was unique and sufficient to lead to the reasonable and honest conclusion that the Claimant was Dappa. Sergeant Ashurst felt it was very important that the Claimant did not raise the issue of identity at any time. I formed the view that she took the accusations levelled against her very seriously and wanted to help me to come to the right decision. I found her to be an impressive witness and I accept her evidence over that of the Claimant where there is any difference between them.

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52. In my judgment, when the evidence is viewed in the round it is plain that at the time he arrested the Claimant, PC Lutkevitch had an honest suspicion that the Claimant had committed the offence of supplying drugs and there were reasonable grounds for that suspicion. Further that he had an honest belief that the arrest was necessary.
53. The reasonable grounds stem from the intelligence briefing for the reasons I give below. I accept PC Lutkevitch's evidence that he honestly believed that the Claimant was Dappa based on that briefing. I find his position eminently reasonable. In my judgment the Claimant seeks to impose an impossibly high standard on an arresting officer, in effect looking for something far closer to certainty than to reasonable suspicion.
54. The Claimant's case on unlawful arrest relies on my finding that the description given by AB to PC Lutkevitch on 1 May 2018 is so clear and cogent that it wipes out the impact of any other factors that might have suggested to PC Lutkevitch that the Claimant was Dappa. I am not prepared to make that finding. In my judgment it would be plainly wrong to do so. The weight of the following evidence was more than enough to justify reasonable suspicion that the claim was Dappa:
- a. The content, timing, and purpose of the intelligence briefing. The briefing was compiled from intelligence reports gathered over time and recorded that the Claimant was Dappa. It identified him by name, and by address and by likeness (a photograph). It gave details about what were believed to be his illegal activities. This briefing was presented shortly before the arrest and was clearly intended to summarise the fruits of a great deal of police work.
 - b. The strongest evidence was that Dappa was called Rizwan Akhtar and had changed his name to Rizwan Khan. The Claimant was the only person in the locality known to the police who fitted this description.
55. I am also satisfied that PC Lutkevitch had an honest belief that the arrest was necessary and that there were reasonable grounds for that belief. The timing of the arrest is important. Known associates of Dappa had been arrested and it was, in particular, important to interview the Claimant (who was believed to be Dappa) at the same time and ensure that he was not free to destroy evidence or interfere with the investigation once it became clear his associates had been arrested.
56. I am satisfied that PC Lutkevitch explained that he was arresting the Claimant and that his use of force (by applying handcuffs) was appropriate. The only contrary evidence (which was in any event far from clear) came from the Claimant. For the reasons I have set out above I found him to be a wholly unreliable witness. There was an honest belief that the Claimant was a drug dealer and I accept PC Lutkevitch's evidence as to why he felt it appropriate to use handcuffs.
57. I am also satisfied that the initial and subsequent detention at the police station and detention before arriving at the police station were lawful. Detention in the police van was appropriate whilst the search of the Claimant's home was ongoing. I accept at the

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police station that PS Jones properly (and correctly) authorised detention to allow evidence to be gathered by questioning and to preserve evidence (see section 37 of the Police and Criminal Evidence Act 1980). The Claimant's suggestion that PS Jones ought to have concluded that no further investigation was required is wrong. I note that no issue with detention (or indeed arrest) was raised by the Claimant's solicitor when he attended the police station.

58. I am satisfied that further detention was properly authorised. I accept that when authorisations were postponed, the postponement was justified in accordance with section 40(4) of PACE on the grounds of practicality (sect.40(4)(a) and in particular because a reviewing officer was not "readily available") and that sufficient reasons for the postponement were properly recorded. Mr Hughes takes the point that the reasons were sometimes written by the custody sergeant and not the review officer. Section 40(7) requires the review officer to "record the reasons.... in the custody log". I accept that the reviewing officer did not always physically make the entries. In my judgment that does not mean that detention was not authorised. An obligation to record reasons can in my judgment be discharged by the reviewing officer authorising the custody sergeant or another officer to note down the reasons. The fact that there was in each case a good reason for postponement is not in issue.
59. The length of the Claimant's detention was reasonable having regard to the fact that criminal associates of Dappa had been arrested at the same time. The questioning of each needed to be complete before any could sensibly be released.
60. I must resolve the issue of AB's statements and whether they were disclosed and shown to the Claimant during the interview.
61. On the one hand, as Mr Hughes submits, it is difficult to understand why, if the Claimant saw AB's statements and they had been disclosed, identity was not put in issue at the interview. Had that been the case, there would have been a VIPER parade much sooner and the Claimant would have been released much sooner. On the other, there is no explanation about what (if not the statements) was disclosed.
62. I have come to the conclusion, having regard to all of the evidence, that the Claimant was shown AB's witness statements and that they were disclosed to his solicitor before the interview and discussed with him. I reach that view for a number of reasons:
 - a. The interview record refers to AB's statements. There is no suggestion that the record is inaccurate. I am satisfied that if there had been no disclosure of the statements before the interview, the Claimant's solicitor would have asked to see them.
 - b. The fact that the custody records shows that disclosure was given and that there was thereafter a 31-minute conference between the Claimant and his solicitor tends to support the conclusion that there was some documentary disclosure and that it was discussed. In further support of the conclusion, I note that the Claimant has not called any evidence from the solicitor who attended the interview.

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- c. The evidence of the Claimant on this point (and generally) is not reliable.
63. I am also satisfied that AB's statements were provided to the CPS lawyer on the day of charge and were discussed by the CPS lawyer and Sergeant Ashurst. This further corroborates the fact they were disclosed to the Claimant.
64. I accept Sergeant Ashurst's evidence on this matter. Further, and perhaps more importantly, it is clear that the Claimant's defence team had the statements by 8 June 2018 when he applied for bail. The statements could only have come from the CPS. There is no complaint in the application for bail that the statements had not been shown to the CPS, that disclosure of them was in any delayed or that there was any suppression of the statements at the time of the interview. In my judgment these are important factors.
65. I find that PC Lutkevitch had an honest belief in the Claimant's guilt, and that he believed, on reasonable grounds, that the circumstances of the case were such that, assuming them to be true, any ordinary prudent and cautious man, placed in the position of the accuser, would reach the conclusion that the Claimant was probably guilty of the crime he was charged with. It follows that there is no malicious prosecution.
66. I also find that there is no misfeasance in public office. This is a serious allegation. It is surprising that the Claimant was prepared to accept in opening that it was included on a "*belt and braces basis*".
67. It follows that the claim brought by the Claimant is to be dismissed in its entirety.

The trial

68. There were a number of unusual aspects of this case.
69. It was first listed to be heard in June 2023 before a different judge and with a jury. That trial did not conclude because there was insufficient time. Not least because of the jury, it was not practical to list the matter as a part heard. The trial was therefore re-listed to start again. For various other reasons it was agreed that I should hear the trial. At a pre-trial review, it was agreed that I should conduct the trial without a jury.
70. A transcript of the first proceedings was available. I was not referred to it in any material way.
71. A further unusual aspect of this claim is that some of the general investigations into police efforts to prevent drug dealing in Rochdale were the subject of a BBC TV documentary called "the Detectives". I was invited to watch certain parts of the documentary and did so, pending any decision about its evidential value (and relevance). Again, although I had some written submissions on the documentary, I was not invited to make any ruling in respect of it, and (apart from watching the extracts as part of the Claimant's opening) I was not referred to it. It seems to me that the parties rightly concluded that the content of the documentary was irrelevant.