



IN THE ROYAL COURTS OF JUSTICE

55CH0266924

BEFORE THE HON. MRS JUSTICE CUTTS DBE

IN THE MATTER OF NASEN SAADI

IN THE MATTER OF AN APPLICATION FOR DISCLOSURE OF THE COURT ORDERED  
PSYCHOLOGICAL REPORT

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**RULING ON APPLICATION BY BACK2BACK PRODUCTIONS LTD**

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## Introduction

1. Back2Back Productions Ltd (“the production company”) is a production company concerned with factual programme making, in particular concerning crime. Back2Back has been commissioned to make a television series entitled “Murder in Mind” which will have a specific focus on the psychological and societal causes of serious violent crime. The series aims to examine the perpetrator’s life from birth to conviction, considering adverse childhood experiences, key psychological developments and contributory life events.
2. One episode of the programme is intended to focus on the offender Nasen Saadi who, following his trial at Winchester Crown Court in December 2024, was convicted of one offence of murder and one of attempted murder. He was 20 years of age at the time of the offences and had travelled from the Croydon area, where he lived and studied, to Bournemouth specifically to murder a member of the public. Sentence was adjourned for the preparation of a psychological report. In a televised hearing, I sentenced him on 28 March 2025 to life imprisonment with a minimum term of 40 years. As Saadi had spent time on remand that was reduced to a minimum term of 39 years and 65 days.
3. The production company applies for release of the psychological report of Dr Ruthenberg commissioned by the court to assist in the sentencing of Saadi. In its position statement the company states:

*“The use of the psychological report offers not only evidentiary context but a clinically grounded framework that enhances public understanding of the offender’s mental state at the time of the offence.”*

## The sentencing hearing

4. Saadi denied the offences in police interview and did not give evidence at trial. He did however co-operate with Dr Ruthenberg in the writing of his report.
5. In sentencing Saadi I referred to that report. At paragraph 17 of my sentencing remarks, I said:

*“ Why did you act as you did? Dr Ruthenberg’s report sheds some light on that. You have experienced difficulty socialising and communicating with others by reason of the fact you have some autistic traits although you do not have autistic spectrum disorder. It seems that you have felt humiliated and embarrassed by repeated rejections or perceived rejections of any advances you have made, particularly towards girls which over time has*

*resulted in a deeply suppressed rage directed towards society and women in particular. You developed a fascination with violence, horror, crime and the mind of those who kill and a deep seated urge for revenge against society. In Dr Ruthenberg's view you identified yourself with the mind of a killer because you wished to feel the power of which you felt society had robbed you by rejecting and humiliating you. The idea of being a recognised killer became appealing to you."*

## **The application**

6. I heard oral submissions on the application for release of the report on 3 July 2025. There had been some delay between Back2Back's first approach to the court for release of the document and that listing. That was caused in large part by the failure of the production company to follow the rules and procedure for making applications of this kind. That procedure is set down in Criminal Procedure Rules 5.8-5.10. In addition, paragraph 2.6 of the Criminal Practice Direction concerns access to material held by the court. Further guidance and assistance is contained in chapter 5 of the Judicial College Guidelines on Reporting Restrictions in the Criminal Courts.
7. Applications of this nature must be made in accordance with the rules. The original approach to the court was informal and inappropriate. I am however grateful to the production company and to Mr Gainsborough, an experienced executive producer of the company, for the helpful written and oral submissions that have now been made.
8. Prior to the production company's approach to the court, they informed Dr Ruthenberg (the author of the report), Saadi's legal representatives at trial and Saadi himself of the intention to make this film and sought their views. Indeed, they wish Dr Ruthenberg and leading counsel for Saadi at trial to appear in the programme. The application for release of the report was made to the court at the suggestion of Dr Ruthenberg.
9. Trial counsel and Dr Ruthenberg had agreed to participate in the programme. Dr Ruthenberg raised no objection to release of the report on condition that the court agreed. Saadi had originally indicated that he did not object. Indeed, he appeared to welcome the programme which is perhaps of no surprise as part of his motive for the crimes was to achieve notoriety.
10. Prior to the hearing it came to my attention that Saadi had sought advice on appeal against conviction and sentence from fresh counsel. I directed that Ms Bahra KC, now instructed, should be notified of the application. Following her discussion with Saadi about it, he has changed his stance and now raises

objection. I am grateful to Ms Bahra for her helpful written and oral submissions.

11. The Crown Prosecution Service have indicated that they do not support release of the report.

## **The legal framework**

### *Cape Intermediate Holdings Ltd V Dring*

12. In *Cape Intermediate Holdings Ltd v Dring* [2019] UKSC 38 the Supreme Court considered the extent and operation of the principle of open justice. The court confirmed:

*“41. The constitutional principle of open justice applies to all courts and tribunals exercising the judicial power of the state. It follows that, unless inconsistent with statute or the rules of court, all courts and tribunals have an inherent jurisdiction to determine what that principle requires in terms of access to documents or other information placed before the court or tribunal in question. The extent of any access permitted by the court’s rules is not determinative (save to the extent that they may contain a valid prohibition). It is not correct to talk in limits to the court’s jurisdiction when what is in fact in question is how that jurisdiction should be exercised in the particular case.*

*42. The principal purpose of the open justice principle are twofold and there may well be others. The first is to enable public scrutiny of the way in which courts decide cases – to hold the judges to account for the decisions they make and to enable the public to have confidence that they are doing their job properly. In *A v British Broadcasting Corp*, Lord Reed reminded us of the comment of Lord Shaw of Dunfermline in *Scott v Scott* [1913] AC 417 that the two Acts of the Scottish Parliament passed in 1693 requiring that both civil and criminal cases be heard “with open doors,” “bore testimony to a determination to secure civil liberties against the judges as well as against the Crown”*

*43. But the second goes beyond the policing of individual courts and judges. It is to enable the public to understand how the justice system works and why decisions are taken. For this they have to be in a position to understand the issues and the evidence adduced in support of the parties’ cases. In the olden days, as has often been said, the general practice was that all the argument and the evidence was placed before the court orally. Documents would be read out. The modern practice is quite different. Much more of the argument and evidence is reduced into*

*writing before the hearing takes place. Often documents are not read out. It is difficult, if not impossible, in many cases, especially complicated civil cases, to know what is going on unless you have access to the written material.*

...

*45. However, although the court has the power to allow access, the applicant has no right to be granted it (save to the extent that the rules grant such a right). It is for the person seeking access to explain why he seeks it and how granting him access will advance the open justice principle. In this respect it may well be that the media are better placed than others to demonstrate a good reason for seeking access. But there are others who may be able to show a legitimate interest in doing so. As was said in both Kennedy at para 113 and A v British Broadcasting Corpn at para 41, the court has to carry out a fact-specific balancing exercise. On the one hand will be the purpose of the open justice principle and the potential value of the information in question in advancing that purpose.*

*46. On the other hand will be “any risk of harm which its disclosure may cause to the maintenance of any effective judicial process or to the legitimate interests of others”. There may be very good reasons for denying access. The most obvious ones are national security and the protection of children or mentally disabled adults, the protection of privacy interests more generally and the protection of trade secrets and commercial confidentiality...”*

#### *In re HMP*

13. In the recent case of *In re HMP* [2025] EWCA Civ 824 the Court of Appeal (Civil Division) considered the two main purposes of the open justice principle identified in *Dring*. The case concerned an application by the BBC for access to documents in care proceedings concerning two children. The BBC believed that the children had been placed with their first carer by the Local Authority. The BBC stated that they were investigating with a view to reporting on the circumstances in which the children came to be cared for by the first carer, the degree to which the local authority fulfilled its fundamental safeguarding role and understanding the children’s experiences in the first carer’s care.
14. The court recognised open justice as a fundamental principle. At [21] the court said that whilst the court in *Dring* recognised that its identification of the purposes of open justice might not be exhaustive, the core aim is to ensure appropriate transparency for the work of the courts and tribunals and the judges

who sit in them. The court said:

*“22. As is apparent from decisions such as Newman v Southampton City Council [2021] EWCA Civ 437 it is important to understand and respect the limits of open justice in this context. Court files may contain a great deal of information that is commercially sensitive or confidential or (as in this case) personal and private. The open justice principle does not extend to affording third parties access to information for reasons unconnected with examining the work of the courts and tribunals and the judges who sit in them.*

...

*26. The application of open justice principles is confined to the system of justice in the narrow sense. Disclosure for one of the purposes identified in Dring may incidentally facilitate scrutiny of decision making by local authorities and other public bodies. But enabling such scrutiny is not itself a purpose which requires or justifies disclosure under the open justice principle.*

15. Recognising that each case will turn on its own facts, the court found that the objective of the BBC in that case, whilst undoubtedly part of a legitimate journalistic investigation, was neither to scrutinise the way in which courts decide cases, nor to enable the public to understand how the justice system works and decisions are made. It was not in any way designed to throw light on the workings of the family courts and their judges. The BBC did not want to report on the proceedings themselves: the proceedings were not relevant to the issues which the BBC wanted to investigate and report on. The BBC wanted to monitor the effectiveness of private fostering arrangements. That was not what *Dring* was about.
16. In conclusion, the court said that the principles of transparency and open justice are there to allow the workings of the justice system to be understood and examined as appropriate. However, care proceedings cannot be regarded as an available source of material for journalistic endeavour that has nothing to do with the open justice principle.

#### *Judicial College Guidelines*

17. In a distillation of the legal principles chapter 5.1 of the Judicial College Guidelines cite *Dring* as authority for the proposition that the default position is that where documents have been placed before a judge and referred to in the course of proceedings, the media is entitled to have access to those documents

in accordance with open justice principles. There may however be countervailing reasons in an individual case which outweigh the merits of the application. In deciding these questions, the court has to carry out a proportionality exercise which is fact-specific, where central considerations will be the purpose of the open justice principle, the potential value of the material in advancing that purpose and conversely any risk of harm which access to the documents may cause to the legitimate interests of others.

#### *Paragraph 2.6.10 Criminal Practice Direction*

18. This paragraph states that the supply of information is at the discretion of the court. It contains a helpful table which sets out the document type and considerations on whether to supply it. In relation to pre-sentence reports; medical reports; reports and summaries for confiscation, the considerations state:

*“Usually confidential, even where reference has been made to it or quoted from it in court.”*

#### **The position of the parties**

##### *The production company*

19. In his written submissions, Mr Gainsborough states that the application is rooted in the principle of open justice. The episode aims to responsibly explore the psychological, interpersonal and societal contributors to the offences for which Mr Saadi was convicted with a particular reference to the growing concerns around violent misogyny, mental health and perceptions of masculinity. The documentary’s purpose is for public education and informed debate consistent with the responsible media’s role in a democratic society.
20. The nature of the offence, a planned misogynistically motivated attack on two women, has generated significant public and media concern. In such circumstances, transparency becomes essential to maintaining public confidence in the administration of justice. The psychological report played a key part of the sentencing rationale. Enabling limited, contextual reference to the report helps ensure that any future public debate, including reporting on appellate proceedings should such ensue, is grounded in fact rather than speculation. Disclosure in this context promotes rather than undermines both open justice and procedural fairness.

21. Mr Gainsborough relies on *Dring* at [44] to the effect that the public should be allowed access to documents which have been placed before the court and referred to in the hearing and that one object of the exercise is to enable the observer to relate what the judge has done or decided to the material in front of him. He acknowledges that the court must take countervailing interests into account but submits that the open justice principle outweighs any such interests in this case.
22. He submits that the content sought was placed before the sentencing court in open proceedings, forming part of the judicial reasoning and outcome. The report played a significant role in shaping the sentencing and the court's assessment of culpability and dangerousness. It is therefore subject to the open justice presumption. Disclosure with appropriate safeguards is consistent with *Dring*, particularly where the material will be used for the limited and responsible purpose of public education and accurate reporting on a matter of grave societal concern.
23. Mr Gainsborough says that in a directly comparable case, Lewes Crown Court did not object to their recent application to the use of a psychological report concerning another offender for a Murder in Mind episode. He asserts that this is a precedent which supports the proposition that carefully managed use of psychiatric reports can occur within broadcast media without undermining privacy or justice.
24. The report is sought not for general publication but for contextual commentary by Dr Ruthenberg, Dr Julia Shaw (a criminal psychologist not involved in the criminal proceedings), Kerry Daynes (a forensic psychologist also not involved in the criminal proceedings) and trial counsel.
25. Mr Saadi originally agreed to disclosure of the report. Any change in position by reason of the instruction of new counsel should not retrospectively invalidate the permission previously given. In any event, his refusal to give permission should not undermine the public interest ground of the application.
26. The proceedings against Saadi are now complete. No appeal was brought within time. It is speculative that there may be an application for leave to appeal conviction out of time and such should not prevent release of the report.
27. In oral submissions Mr Gainsborough placed emphasis on the importance of the report in the sentencing exercise. He submitted that it was neither peripheral nor of background importance. Without understanding the source material, the public cannot see how the court weighed Mr Saadi's risk, personal responsibility and mental health. Release of the report would enable the public to understand

the justice of the case. Justice is best served when it is understood.

28. In answer to Ms Bahra's submissions on privacy and confidentiality set out below Mr Gainsborough said that the production company wanted in depth knowledge of Saadi's life from birth to conviction. The programme was based on such and this was why they wanted the report.

29. When asked whether it would be sufficient for Dr Ruthenberg to be able to make reference to his report in the documentary, Mr Gainsborough indicated that he would still wish to have the document released to the production company where it would be kept within secure conditions.

#### *Saadi's trial representatives*

30. In written submissions Mr Sherrard KC points out that key elements that underpinned Dr Ruthenberg's report are already in the public domain by reason of its use and discussion in the sentencing hearing. In those circumstances he does not oppose Dr Ruthenberg relying on his report should he agree to participate in the documentary. He can properly manage the use of his report in accordance with his ethical obligations.

31. Mr Sherrard has not supported disclosure of the report to the production company.

#### *Saadi's current legal representatives*

32. Ms Bahra KC confirms that Saadi has withdrawn his consent to disclosure of the report to the production company. The focus of her submissions has been on the prospect of an application to appeal conviction and/or sentence following a review of Dr Ruthenberg's report and findings by a newly instructed forensic psychiatrist.

33. Ms Bahra submits that it would be inappropriate to release the report at a time when an appeal remains pending. Disclosure of the report is likely to prejudice any grounds of appeal.

34. She submits that it is perfectly possible for the public to scrutinise and understand the court's reasoning from the sentencing remarks themselves and there is no need for recourse to Dr Ruthenberg's actual report.

35. It is a matter for Dr Ruthenberg whether he participates in the documentary and what he discusses consistent with his regulatory standards. Open justice is not

therefore prohibited. There is no need for release of the entirety of the report which contains details of Saadi's life and confidential medical information.

### *The Crown Prosecution Service*

36. The Crown Prosecution Service chose not to be present at the hearing. In a brief written response Miss Jones KC, trial counsel, said that the CPS did not support release of the report. They had taken the view that further publicity further traumatises those impacted by Saadi's actions, having obtained the express wishes of one of the victims and some family members of the deceased. They are further concerned it may gratify Saadi's stated desire for notoriety. For this reason, they declined to assist the production company's request.
37. The Crown are also concerned about ongoing control of the report should it be released. They recognise that Dr Ruthenberg cannot be prevented from speaking on his conclusions or assessment.

### **Discussion**

38. It is no part of this court's function to determine whether there should be a documentary on Saadi and the crimes that he committed. The production company is entitled to make such a documentary. Dr Ruthenberg is entitled to appear in it to the extent that his professional obligations allow. This judgment is solely concerned with the application to release the psychological report to the applicant.
39. I accept that Back2Back Productions Ltd is a responsible media organisation. I further accept that the aims of the episode concerning Saadi form a legitimate journalistic investigation with reference to the growing concerns around violent misogyny, mental health and perceptions of masculinity.
40. Open justice is a fundamental constitutional principle for the reasons articulated in *Dring* as well as in many other cases. I recognise the greater presumption afforded in CrimPR Part 5 in favour of providing material where the request is made by an accredited member of the media in accordance with open justice principles. As is said in paragraph 2.6.7 of the Criminal Practice Direction, this approach respects the role of the press as a public watchdog in a democratic society.
41. The decision on release of a requested document is fact-specific. Whilst I will make some observations about documents such as this prepared to assist a judge in sentencing offenders, I approach this application on that basis. For that

reason I find no assistance in the fact that Lewes Crown Court has agreed to release a psychiatric report in a wholly unconnected case. Bar supporting the applicant's assertion that they can be entrusted with such a document, it has no relevance to this application.

42. I turn first to the purpose of the open justice principle which, as set out above, has recently been considered in *HMP*. In part, Mr Gainsborough submitted that the principle of open justice applied as the proposed use of the report was to explain how the sentencing court reached its decision and the sentencing rationale remains central to the public's understanding of the case. On analysis, I am not persuaded that this is in fact the reason for the application.
43. Standing back, it is clear from Mr Gainsborough's helpful written and oral submissions that the proposed documentary is not focussed on the criminal justice process nor designed to throw light on the workings of the court or of the sentencing process in this case. The planned episode on Saadi is not to enable the public to understand why the court determined that Saadi was a dangerous offender or that the sentence imposed was necessary. It is to explore his life from birth to conviction in order to understand his mental state at the time of the offending. In a wider context, the documentary wishes to explore the growing public concern around violent misogyny, mental health and perceptions of masculinity. Whilst these are legitimate journalistic aims, they do not in my judgment engage with the principles of open justice in the narrow sense identified in *Dring*. As in *HMP*, the production company does not want to report on the proceedings themselves: the proceedings are not relevant to the issues which the company wants to investigate and report on. As *HMP* says, this is not what *Dring* was about.
44. The conclusions of *HMP* are apposite in this case. The principles of transparency and open justice are there to allow the workings of the justice system to be understood and examined as appropriate. In *HMP* it was said that care proceedings cannot be regarded as an available source of material for journalistic endeavour that has nothing to do with the open justice principle. In my judgment the same can be said about criminal proceedings. I do not therefore consider that the purpose of open justice understood in that narrow sense would be met by the release of this report.
45. In any event, I do not see that release of the report is necessary for the sentencing to be understood. The remarks themselves make reference to the relevant parts of the report to the decision that had to be made. Open justice is served by the sentencing remarks delivered in open court and, in this case, televised. The release of the report would add little, if any, value to understanding the life sentence or the minimum term imposed.

46. There are also the interests of others to be considered. There is a reason that the Criminal Practice Direction says that pre-sentence and medical reports are usually confidential even where reference is made to them in open court. Indeed, that reason is why, in the experience of this court, applications for release of sentencing reports are rarely made. These reports almost always contain material of a private and confidential nature. That is so in this case. Dr Ruthenberg's report contains details of Saadi's personal and developmental history, his GP and medical records, school records and his prison records as well as the findings of the psychologist himself. Bar the psychologist's ultimate conclusion, none of this was referred to in the sentencing remarks nor was it in the public domain. Dr Ruthenberg was not a witness in the case.
47. In sentencing an offender, a judge is obliged to explain the reasons for the sentence and in general terms the factors that he or she has taken into account. Some of those factors may come from a report commissioned for sentence. It cannot be the case that simply by reference to a report in sentencing remarks all private and confidential material contained therein can and should be made public. As *Dring* makes clear, the open justice principle does not operate in that way.
48. Although earlier of a different view, Saadi himself has not given consent for the report to be released. I do not accept the applicant's assertion that he should not be permitted to change his mind and that his earlier consent remains valid. I agree with Mr Gainsborough that Saadi's consent is not determinative of the application, but it is nonetheless of importance and a factor in the proportionality exercise that I conduct.
49. Saadi has been convicted and sentenced and the time period within which to appeal has expired. The proceedings can therefore properly be said to have come to an end. It is however apparent that fresh counsel are considering whether there are grounds upon which to appeal conviction and/or sentence arising from things which came to light for the first time in Dr Ruthenberg's report. Whether there is to be an application to appeal out of time is currently entirely speculative. For that reason this factor, whilst relevant, cannot in my judgment carry great weight in the proportionality exercise.
50. There is a further public interest to be considered. In *Dring* at [46] the court recognised that the proportionality exercise must consider any risk of harm to the maintenance of an effective judicial process in addition to the legitimate interests of others. An effective judicial process requires a judge to pass a sentence on an offender which properly considers questions of culpability and harm. In that regard it is often necessary to obtain information about an offender's mental health and personal circumstances. The judge must also have regard to public safety and questions of dangerousness within the meaning of

section 308(1) of the Sentencing Act 2020. Reports from the probation service or from psychiatrists and psychologists are frequently necessary and sometimes vital to assist the judge in coming to these important decisions. In that context it is important that the reports are as detailed and accurate as possible. It is important that an offender speaks openly to the author of the report so that culpability and risk can properly be analysed. It is important that those who write the reports are frank in their assessments and conclusions. All of this is best achieved in circumstances of confidentiality. Routine disclosure of the reports is likely to have a chilling effect on the willingness of offenders to be open with the authors of the reports and potentially on the willingness of the authors themselves to be as frank as they need to be.

51. This is not to say that reports commissioned for sentence should never be disclosed. Each application for the release of such a report must be considered on its merits and according to the fundamental importance of open justice which carries significant weight. I consider however that a judge in determining the application can have proper regard to the strong public interest in the need to ensure that those who sentence have all the material necessary to assess culpability and to protect the public in often complex cases.

## **Conclusion**

52. As was said in *HMP* the principles of open justice and transparency are there to allow the workings of justice system to be understood and examined as appropriate. The role of journalists in reporting on criminal cases is an important one and clearly in the public interest.
53. However, taking into account (1) the reasons why the applicant wants release of the report in this case; (2) that open justice has been served by the delivery of reasoned sentencing remarks in public; (3) the private and confidential nature of the material within the report; (4) that Saadi does not consent to its disclosure; and (5) that there is a strong public interest in the confidentiality and therefore integrity of sentencing reports; I conclude that the proportionality exercise resolves firmly in not releasing the report. The application is accordingly refused.