IN THE COURT OF APPEAL
CRIMINAL DIVISION
ON APPEAL FROM THE CROWN COURT AT ISLEWORTH
HIS HONOUR JUDGE INYUNDO
T20207427/T20207385/T20217214/T20201157

CASE NOS: 202302463/202302655/202303847/202303926/202500107/B4

Neutral Citation Number: [2025] EWCA Crim 146

Royal Courts of Justice
Strand
London
WC2A 2LL

Friday 7 February 2025

Before:
LORD JUSTICE LEWIS
MR JUSTICE JAY
MRS JUSTICE TIPPLES

REX
v
RAMESH KUMARAGURU
PRASANNA GODWIN
VARAGAVAN RAVICHANDRAN
GAJANAN NABARATNARAJAH

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MS KATE ROXBURGH appeared on behalf of the Applicant Kumaraguru
MS MOLLY PINKUS appeared on behalf of the Applicant Godwin
MS CAROLINE BAKER appeared on behalf of the Applicant Ravichandran
Non-counsel application on behalf of the Applicant Nabaratnarajah

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J U D G M E N T

LORD JUSTICE LEWIS:

1. On 17 July 2023, in the Crown Court at Isleworth, three of the applicants, Prasanna Godwin, Varagavan Ravichandran and Gajanan Nabaratnarajah, were convicted following a trial of an offence of attempted aggravated burglary. Also on 17 July 2023, Prasanna Godwin and Ramesh Kumaraguru were convicted of one offence of wounding with intent to cause grievous bodily harm. We will refer to the applicants, without meaning any disrespect, by their surnames.
2. On 13 October 2023 Godwin (who was aged 27 at the time of the offence) was sentenced to 11 years and 10 months' imprisonment for attempted aggravated burglary, and 8 years' imprisonment, to be served concurrently, for the offence of wounding. Ravichandran (who was aged 19 at the time of the offence) was sentenced to 6 years' imprisonment for the offence of attempted burglary. Nabaratnarajah (who was aged 25 at the time of the offence) was sentenced to 8 years' imprisonment for the offence of attempted aggravated burglary. Kumaraguru (who was aged 31 at the time of the offence) was sentenced to 8 years' imprisonment for the offence of wounding.
3. Godwin applies for leave to appeal against conviction and sentence, leave having been refused by the single judge, and applies to adduce new evidence. Kumaraguru applies for leave to appeal against conviction, leave having been refused by the single judge. Ravichandran renews his application but only for leave against sentence, leave having been refused by the single judge. Nabaratnarajah applies for an extension of time to apply for leave to appeal against sentence (needing an extension of 371 days) and the application has been referred to the full Court by the Registrar.
4. The material facts are as follows. On 26 August 2020 Mr Selvakumar was at his family home in Kenmore Crescent in Hayes, London. At around 1 a.m. he was outside the front of his house when he saw a BMW motor vehicle with a registration number of BO05SEN drive slowly past and then turn around. He said that he recognised the driver of this vehicle because his eye looked totally different but he did not know the driver's name.

Mr Selvakumar also saw an Audi motor vehicle and two other cars. He said that the BMW drove at speed towards him and his father, causing him to believe that they would be run over. The Audi was driven onto the driveway of his house next to the family car.

Mr Selvakumar and his father ran back into the house and tried to close and lock the front door. His mother, who had come out onto the driveway, was left outside.

5. The occupants of the vehicles, some of them with their faces covered, were armed, and tried to gain access to the property by pushing and striking the front door with bottles, sticks, knives, baseball bats, metal bars and items taken from some building works taking place in the neighbouring property. Windows of the property were broken and the family car was damaged. Mr Selvakumar, his father and his sister all suffered injuries.
6. The police were called and the attackers left the property before the police arrived at 1.30 a.m. A video was taken of the attack on the property and uploaded to social media.
7. Pirabakaran Thawachellwan is a friend of Mr Selvakumar. On 26 August 2020, having received a telephone call about the incident, he took a taxi to Kenmore Crescent. Whilst at Mr Selvakumar's home, he saw that Mr Selvakumar was speaking to someone on the telephone. The telephone call caused Mr Selvakumar to become angry and emotional.

   Mr Thawachellwan took the phone and spoke to the person at the other end of the line. The person on the telephone led him to believe that he would be attacked next. He quickly made arrangements with a friend to be driven from Kenmore Crescent to where he was staying.

   During the car journey, he noticed a black car that appeared to be following his vehicle.

   Mr Thawachellwan told the driver of his car to stop in Makepiece Road. He got out of the car with the intention of hiding, but the black car pulled over and people got out of the vehicle. A group of around twenty people came towards him from all directions. The group, armed with weapons including machetes and metal bars, started to attack him. During the attack he fell to the floor. He believed the attack continued for more than five minutes. The attack was filmed on a mobile phone by his attackers and then loaded on to social media.

8. A call was received by police at about 3.52 am on 26 August 2020. Police went to Makepiece Road, where they found Mr Thawachellwan. He was taken to hospital by ambulance. Upon examination he was found to have wounds to his head, scalp, ankle, thigh and buttocks, as well as a fractured forearm and fractures to his left tibia and fibula of his ankle. Whilst at hospital he gave names of individuals to a police officer, and one of the names was Godwin whom he recognised from an injury to his eye. In his statement of 2 September 2020 he gave the name 'Ramesh' as one of his attackers.
9. On 21 October 2020 Mr Thawachellwan attended a video identification parade where he identified Kumaraguru and said he was the person who, with a metal bar, had started banging him and hitting him on his legs and his backside and the back of his neck.
10. On 4 November 2021 Mr Thawachellwan attended a video identification parade where he identified Godwin as the person who came out of the car with weapons and had a sharp weapon in his hand and said something like, "Kill him ".
11. On 3 November 2021 Mr Selvakumar attended a video identification parade and identified the applicant Godwin as the person who had driven the BMW and who had tried to run over him and his father.
12. The BMW with the registration BO05SEN and a black Audi with registration number LA04SHA were found parked near Makepiece Road by the police at about 10 a.m. on 26 August 2020. The cars were seized by police and were examined for forensic evidence. Godwin's fingerprint was found on the rearview mirror of the BMW. Those were agreed facts. In a statement given to police by Godwin when he was interviewed, he said that he had owned the car with that numberplate but he had sold it to his employers, Drive the Best Ltd. He said that he had sometimes been in the car by virtue of working in the company and that would explain his fingerprint on the rearview mirror. He gave an alibi indicating that he had been picked up by his girlfriend's sisters sometime between midnight and 1 am and they had driven him to Watford.
13. The prosecution case was one of joint enterprise. They said that the applicants and a

number of others, largely from the Tamal community, were involved in both attacks. The second attack was linked to and followed on from the first attack. The prosecution said that Godwin had driven the BMW motor vehicle BO05SEN and was part of the group that attempted to enter Mr Selvakumar's house and assaulted Mr Selvakumar. They said that Godwin was also part of the group that assaulted Mr Thawachellwan in Makepiece Road. They said that Ravichandran was part of the group in the first incident outside Mr Selvakumar's home on Kenmore Crescent. They said he was linked to the attack because of DNA evidence from blood left at the scene which matched his DNA. Nabaratnarajah, they said, was part of the group in the first incident. They said he was one of the group armed with a weapon who tried to get inside Mr Selvakumar's house. They also said that Godwin and Kumaraguru were part of the group that attacked Mr Thawachellwan in Makepiece Road.

14. To prove the case against Godwin, the prosecution relied on the following. They relied on the identification evidence of Mr Selvakumar, who had stated that the BMW was within touching distance of him when he passed and he recognised the driver straightaway because his eye looked “totally different”. He said he did not know the man's name, so he asked a friend and the friend gave him Godwin's name. He described the eye injury as the eye always being closed. Mr Godwin has an eye injury suffered from an accident involving fireworks seven years earlier. However the eye is always open, not closed. Mr Selvakumar had said that he saw the driver of the BMW for around five to ten seconds. The prosecution relied upon the video recording that had been taken of the incident. That showed that there was some lighting of the scene: there was lighting from a neighbour's house, although there was no lighting in Mr Selvakumar's house and there was no streetlighting in that particular location. In addition, there was the fingerprint of Mr Godwin on the BMW.
15. To prove the case in relation to the attack on Mr Thawachellwan, the prosecution relied upon his evidence of his arrival at Kenmore Crescent and the telephone call which led him to leave the property as showing that the two attacks were linked. They relied on the fact

that Thawachellwan stated that a person called Ramesh was standing above him, bouncing on his back, and 'Ramesh' is Kumaraguru's first name. They relied on the identification of Mr Kumaraguru by Mr Thawachellwan and also the fact that he recognised Kumaraguru's voice from the recording.

16. At the trial, counsel for Godwin and Kumaraguru submitted that there was no case for either of the two men to answer. In Godwin's case it was said that both Mr Selvakumar and Mr Thawachellwan were wrong in their identification of Godwin. Mr Selvakumar's identification was said to be so flawed because of the time of the attack (it was 1 a.m. in a dark unlit street) as to be not capable of being relied upon by the jury. That was particularly so given the inaccurate description of the eye injury: the witness had stated that Godwin's eye was closed when in fact the eye could not close. It was submitted that the identification of the video identification parade was weak because it was really a matter of recognition: Mr Selvakumar knew Godwin and he was identifying the person whom he recognised not the person who had been present at the attack of his home.

17. It was submitted that Mr Thawachellwan's identification of Godwin was also so poor and unreliable that no jury properly directed could convict on that evidence. Further, his evidence was said to be weak because at times the witness had mentioned Godwin's name to the police and at other times he had not. It was not until a year and three months later that Godwin was identified by him at a video identification parade.

18. Counsel for Kumaraguru submitted that the identification of Godwin was again so poor and so unreliable that no jury properly directed could convict on that evidence. The evidence was particularly weak given that the victim was face down whilst being attacked and would not have been able to see his attackers. The identification of Kumaraguru by identifying his voice from the video recording of the incident was unreliable. The quality and quantity of the recording was poor and limited. It was accepted that the name Ramesh (Kumaraguru's first name) was mentioned by Mr Thawachellwan within hours of the attack when the witness was in hospital and injured.

19. The judge had detailed oral and written submissions on those matters. He summarised the approach to be taken in the following way:

> "The test in *Galbraith* is well established and I don't repeat it now. Suffice to say: a submission should be allowed where there is no evidence upon which, if the evidence adduced were accepted, a reasonable jury properly directed could convict. As far as the first limb is concerned which attaches to the third defendant, there is no evidence at all [on] which a jury could convict. And as far as the generality of the rest of the submissions, the second limb of *Galbraith* bites and that is: where there is evidence of a tenuous character, either due to inherent weaknesses, inconsistencies or vagueness and if the Crown's evidence taken at its highest no jury properly could convict [on it], it is the court's duty to stop the case at that stage. However, where evidence depends on the view taken of the witnesses' reliability or matters generally within the province of the jury where on one possible view of the facts there is evidence which a reasonable jury could properly come to the conclusion that a defendant is guilty, the matters should be left to the jury. And the decision is one of judicial discretion and I remind myself of the assessment of the evidence – [which] require[s] an assessment of the whole of the evidence as set out in *R v Shippey* and not to pick out the plums from the duff.
>
> As far as *Turnbull* is concerned, again more specifically the court's attention has quite properly been brought to paragraph 14 of Archbold where: withdrawing a case from the jury is necessary where the quality of the identifying evidence is poor and unsupported, the court should withdraw the case from the jury because of the experience of injustice in these cases."

The judge continued in the following way:

> "In the submission of a number of these defendants the evidence can be poor, even if it's given by a number of witnesses, and where the evidence sufficient to justify the case being left to the jury or there's no other evidence to support it, the judge is entitled to direct the jury that the evidence of one witness can support another. But more pertinently as far as the submissions are concerned, even where there are two honest witnesses the court must guard against leaving poor quality or unsupported identification evidence to a jury and should be alive, as I've already said, to the caution that is required in identification cases. I say that because each of the parties have acknowledged that although there is an element of recognition and, indeed, the background which has been explored to a certain extent by some of the defendants, the court should as a first approach [look at] the nature of the evidence that has been presented to see whether it is such that it ought properly to be withdrawn from the jury."

The judge then noted that the defence counsel had rightly drawn his attention to a number of matters. He went on to say this:

> "The defence are right to draw to my attention the fact that this is a night-time incident or incidents; that they are dynamic incidents; that they involve a group attack and that they are, therefore, limited as far as the opportunity for identification is concerned. The question for the court is whether the evidence is such that this court should now step in and stop the matter going any further.
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> As far as the first [Mr Godwin] is concerned the submissions made fully on his behalf are submissions properly made, but in my judgment. they are submissions for a jury. What they go to is the credibility of the witnesses, the opportunity of them to properly identify him as being involved in either or both of the incidents in circumstances where his name is given at a very early stage. The inconsistencies pointed to by [counsel] in her submissions are submissions that are made and I understand why they are made, but to my mind the evidence as a whole against Mr Godwin is such that in respect of both Count 1 and Count 2 with the alternative Count 3 are matters for the jury. The issues that are raised in the arguments and the matters set out and taking into account, as I have done, an assessment of the evidence as a whole and, in particular, the concerns raised about the circumstances in which the identification or the recognition, as it might be, are said to be made in my judgment are classically matters for the jury and, no doubt, they will be deployed fully as far as the jury is concerned. "

Similarly in relation to Kumaraguru, the judge took the view that the comments about identification and the like were arguments to be considered by the jury taking into account the circumstances of the identification and the caution that the court is required to take. He considered that they were arguments for a jury, as opposed to a court stepping in at that stage to stop the case. He therefore decided that there was a case for each of the two men to answer and the trial continued, and both were ultimately convicted, as we have described.

20. Both Godwin and Kumaraguru apply for leave on the grounds that the visual identification was the result effectively of a fleeting glance in difficult circumstances. The identification parade, it was submitted, involved the identification of someone each witness knew and was not really an identification of the person present at the scene. Further, in relation to Kumaraguru, the voice identification was said to be unreliable given the limited quantity and quality of the recording. Both counsel submitted that the evidence was inherently weak and tenuous and so the case should have been withdrawn from the jury.

21. So far as Godwin and the attempted burglary is concerned, Ms Pinkus dealt with the fact that there was fingerprint evidence at that stage of his fingerprints being on the car that had been seen to drive to the house by saying that had been explained away in the prepared statement of Mr Godwin.

22. In addition, one of the grounds of appeal for Godwin was that the judge was wrong to direct the jury that they could draw an inference from the fact that he had not given details of his defence statement of his alibi. As a matter of fact he had not given the required details of the address and date of birth of the alibi witness, nor had he given that to the police in his prepared statement. So as a matter of fact what the judge said was correct and the contents of the direction are correct. Ms Pinkus for Mr Godwin submits, however, that it was not really fair to leave the jury to draw an inference when he did at later stages provide the relevant details.

23. The single judge refused leave to appeal and said this in relation to Godwin:

> "2. The judge was right to reject the submission of no case to answer based on alleged weaknesses in the identification evidence:-
>
> > i) The victim recognised the applicant as the driver of a BMW vehicle whose number plate he was able to recall; the applicant had a distinctive eye injury caused by a firework accident although the victim discovered his name later and informed the police.
> > ii) The circumstances of the observation were not prolonged but not fleeting and the lighting was reasonable as demonstrated by a video of the attack filmed by [some] of the perpetrators and posted on social media and shown to the jury.
> > iii) It transpired on investigation that there was a link between the applicant and the BMW and his fingerprint was found on the rearview mirror.
> > iv) The applicant was also identified by the victim of the ct 2 wounding with intent that was a separate but linked incident on the same night.
> > v) The defence points about the weaknesses and reliability of the identification were all matters for the jury to consider in the light of proper directions by the judge of which no complainant is or could be made. Credibility of the victim's identification is even more a question for the jury in the light of the evidence as a whole.
>
> 3. The judge's directions on the potential relevance of missing information from the alibi notice served as part of the defence statement were both appropriate and fair in all the circumstances and the defence points were ones that could be raised with the jury."

24. The single judge said in refusing leave in Kumaraguru's case that:

> "1. It is contended that the judge should have withdrawn the case from the jury on the issue of identification evidence and no complaint is made of the Turnbull directions to the jury on the strengths and weaknesses of the identification evidence.
>
> 2. It is not arguable that the judge erred in leaving the matter to the jury to consider for the reasons he gave. In particular:
>
> > i. The opportunity to observe was not a fleeting one and there was light at the scene as demonstrated by the video evidence;
> > ii. The initial recognition was supported by the subsequent voice identification from the video."

25. Before us this morning Ms Pinkus for Godwin and Ms Roxburgh for Kumaraguru have gone through essentially the same arguments, relying on the same evidence, as they made to the judge below and in their grounds of appeal to the single judge. We see no arguable error on the part of the trial judge in leaving these cases to the jury. As indicated, he identified the correct approach, he analysed the evidence, and he gave careful consideration to the submissions. He reached a conclusion that he was entitled to come to in concluding that there was a case to answer. We agree with the single judge for the reasons that he gave that the judge was entitled to conclude that there was a case to answer. Similarly, the judge was entitled, for the reasons the single judge gave when refusing leave, to give a direction about the absence of details of alibi from the defence statement. The terms of the direction itself were perfectly proper.

26. Counsel for Godwin also applies to admit new evidence pursuant to section 23 of the Criminal Appeal Act 1968. The evidence comprises a witness statement of Mrs Kugatharsiny Chandravathanan dated 25 August 2023 (that is just over one month after the end of the trial). She says that she is the wife of Chandravathanan Subramaniyan, who was a co-accused of Godwin, but in respect of whom the judge did find that there was no case to answer. She says that she was residing at 11 Swallow Drive in Northolt, London. She also said she is a director of Drive the Best Ltd. She says that Godwin is a close family friend. She says that she has known him for over a decade and would consider him more like

her brother. She says that she knows his mother and sister and is very close to them, and she has employed Godwin and he cleaned and maintained cars for the company.

27. The evidence that Mrs Chandravathanan wishes to give is that the car with the registration number BO05SEN was registered to her company and was cleaned and maintained by Godwin. She says that it was hired in the week leading up to 26 August 2020. She says the customer called and wanted to return the car after 6 pm on 26 August 2020. She told them that this was not possible because there was no staff in the office after that time. She says she then asked the customer to return the car to her home address. She said she asked them to put the car keys through the front door letterbox. She says she thought it was around just before 8.30 - 9 p.m. on the evening of 26 August 2020 when the car keys were posted through the front door letterbox. She says:

> "I then had the car keys in my possession, literally in my hand. There is only one car key to the particular car so there would have been no way anyone else could have driven the car."

28. The first question is whether there is a reasonable explanation for the failure to make that statement and adduce that evidence in the trial. There is no such explanation. The use of the car with registration number BO05SEN was an issue in the case. Mr Selvakumar said he saw the car with that numberplate at his property that night. It had been recovered from Makepiece Road where the second incident took place. Godwin's fingerprint had been found on the rearview mirror. Godwin had explained to the police how it was that he was connected with the car and previously owned the registration plate, how he had sold it to Drive the Best Ltd and worked for them cleaning cars. As well as being employed by the company, Mrs Chandravathanan said she knew him well and was close to him and indeed treated him like a brother. It is inconceivable that Godwin was unable to ask her about the car and whether she knew its whereabouts on the day in question.

29. There is no reasonable excuse for the delay in her providing her statement. In her statement she says that her car had been attacked on 9 January 2020 by a group who she said included Mr Selvakumar's brother, and Mr Thawachellwan. She said that since then she has been afraid that Mr Thawachellwan or any of the others would harm her. She refers to another

incident involving her husband in May 2021. But that does not explain why she was not prepared to make a statement in July 2023 at the time of trial but she was prepared to make a statement for use in proceedings on 25 August 2023. Nothing had happened that she refers to in her evidence; nothing had changed to which she draws the court's attention in her evidence. We conclude therefore that for that reason the statement would not be admissible.

30. Secondly, we do not find the statement capable of belief. The incident happened in the early hours of 26 August - around 1.30 a.m. was the first incident at Mr Selvakumar's house and around 3.30 - 3.50 a.m. on the 26th in relation to Mr Thawachellwan. The police found the car at 10 am on 26 August 2020. The witness says that she told the hire customers to return the car to her home at Swallow Road sometime after 6 pm on the night of 26 August and she says the car keys were put through her front letterbox at around 8.30 - 9 p.m. on 26 August 2020. The car cannot have been returned to the witness's home at some time after 8.30 p.m. on 26 August; it had already been seized by the police some ten hours earlier at 10 a.m. Ms Pinkus submits that one possible reading is that only the keys were put through the door and therefore the whereabouts of the car might be explained in some other way. With the greatest of respect to Ms Pinkus, that is not a possible reading of the witness statement. It is quite clear that Mrs Chandravathanan was saying the car was hired up to and including 26 August; that the customers wanted to return the car after 6 pm. They could not do that at the office, so they were told to take the car to her house and put the keys through the door. It is not capable of belief to think that they had the car and they were using it during the morning of the incident, parked the car when the two incidents were finished, retained the keys for a further ten hours and then dropped the keys alone through the letterbox.
31. So for each of those two reasons, we refuse the application by Godwin to adduce new evidence, and we refuse the application by Godwin and Kumaraguru for leave to appeal against conviction.
32. We turn to the application for leave to appeal against sentence. In relation to the attempted aggravated burglary, the judge categorised this as a category 1B offence within the

guidelines. It was medium culpability as there was some degree of planning and it was a group attack. It fell between categories A and B so far as harm is concerned. It was category 1 because violence was used and serious violence was threatened. The starting point for a completed offence would be 8 years' imprisonment with a range of 6 - 11 years' imprisonment, but, as the judge said, account had to be taken of the fact that this was an attempted aggravated burglary and the reduction in the appropriate sentence had accordingly to be made. The judge considered that there were aggravating factors. He referred to the taking of weapons to gain entry, the use by some of face coverings, the commission of the offence at night in a dwelling. The mitigating factors were that Godwin, Nabaratnarajah and Ravichandran did not have any relevant previous convictions and were of good character.

33. In relation to the wounding offence, that was category A2 within the guidelines. That had a starting point of 7 years' imprisonment, with a range of 6 -10 years. There were aggravating features, including the filming of the victim whilst he was being attacked and uploading it on to social media. In relation to mitigating factors, neither Godwin nor Kumaraguru had relevant previous convictions and had other personal mitigation.

34. In relation to Godwin, he had to be sentenced for both offences and the principle of totality applied. He was sentenced to a longer sentence for the attempted burglary, but the sentence for the wounding was made concurrent; and no objection is made to that course of action. Sentence, as we have said, in his case was 11 years and 10 months' imprisonment for the attempted aggravated burglary and 8 years for the wounding to be served concurrently.

35. In relation to Nabaratnarajah, who was 25 years old at the time of the offence, his sentence was 8 years' imprisonment for the attempted burglary. In relation to Ravichandran, he was much younger - only 19 at the time of the offence. The judge referred to the particular role that he played and he also had significant personal mitigation arising from the tragic circumstances that affected his family at the age of 17. The appropriate sentence in his case, the judge said, was 6 years' imprisonment. In relation to Kumaraguru, the appropriate sentence for the wounding with intent was 8 years' imprisonment.

36. Ms Pinkus, in written and oral submissions on behalf of Godwin, submits that the sentence on the attempted aggravated burglary failed to reflect the fact that the offence was an attempt (not a completed offence) and in relation to the assault she submitted that the judge was wrong to categorise the harm as category 2 as it was not grave injury.

37. We can deal with these grounds shortly. The judge said that he would reflect the fact that the offence was an attempt. The starting point of 8 years for a full offence would therefore have been lower to reflect that, but that would have to be adjusted upwards to reflect the aggravating features. There would then have been some downward adjustment to reflect the mitigation. The resulting sentence of 8 years' imprisonment for that would not even have been arguably manifestly excessive. That is the sentence he gave to others.

38. In relation to the wounding, the judge was entitled to conclude that the injuries were grave and to classify the harm as he did. If the sentences had been consecutive, there would be a total sentence therefore of somewhere in the region of 16 years' imprisonment. The total sentence actually imposed was 11 years and 10 months' imprisonment. The total sentence was not manifestly excessive, reflecting as it did the total offending in two very serious and very violent incidents. We refuse leave to appeal against sentence.

39. In relation to Ravichandran, he was 19 at the time of the offence and he had had a report of a medical psychologist. He was sentenced to 6 years as compared to the 8 years imposed on Godwin and Nabaratnarajah. Ms Baker has made strong and vigorous submissions in relation to the appropriateness of the sentence in his case. She submitted that the judge was wrong to take certain matters into account as aggravating features. Those were the fact that weapons were taken to the scene as that was part of the offence; and she took us through the guidelines and explanatory notes to explain why that was the case. She said the judge should not have found that masks were used to conceal identity as the offence was committed during the Covid pandemic and wearing masks was common. She submitted that only one person was wearing a mask. But the judge says that *some* of the accused were wearing masks, and we cannot go behind the findings of the trial judge. She submitted that it was not right to regard the fact that this was group activity, given that the role that she

submitted that Mr Ravichandran played was a more limited one and he was more to the back of the group, not a leader and not trying to break into the house. She submitted the fact it was carried out at night in a dwelling was also not an aggravating factor in this case because, as it happened, they were not in the house at the time (they were outside), and the fact that it was night did not make the harm any worse. She submitted it was not right to refer to the mother as “an elderly lady of some age”. In fact the judge said she was "an older lady" and that is factually correct. This must have been, on any analysis, a terrifying incident for a mother, who sees these people arrive, sees her husband and her son rush into the house to try to barricade themselves in, and is left outside the house with these groups of people waving these weapons and trying to attack the house. It is important not to minimise the effect of offending behaviour such as this on the innocent victims who endure it.

40. We can deal with Ms Baker's submissions relatively shortly. The judge was entitled to find that this was a group attack with a number of people (at least five, and possibly more) and they were attacking a person at his home in the early hours of the morning. As we have said, Mr Selvakumar did manage to get into the house and barricade it, but that left his mother outside facing the group. It was at night and it was in their home and it must have been terrifying for them. Those are all factors which did aggravate this offence. The reference to weapons being taken to the scene does not on the facts make any material difference in this case and it is not necessary to reach a decision as to whether that could be an aggravating factor for this offence. It is unrealistic to suggest that the judge erred having heard the evidence, in concluding that *some* of the people there used masks and that that was because of public health concerns to do with Covid rather than the fact that they wanted to conceal their identity.

41. The judge did properly take into account the mitigating factors, including the applicant's age and lack of maturity. The judge referred to the particular role that he had played in the attack, and the judge was very familiar with the facts of the case as he conducted the trial, and he referred to the difficulties that Ravichandran and his family had faced and the tragic

circumstances that afflicted him at the age of 17. The sentence was significantly lower than the sentences imposed on the others as a result of all those mitigating factors. It is not arguable that the sentence was manifestly excessive. We refuse leave to appeal against sentence in Ravichandran's case.

42. In his grounds of appeal Nabaratnarajah says that the accused Ravichandran was sentenced to a much shorter sentence and he said that "seems very unfair". The sentence imposed on Ravichandran reflects his particular circumstances: his particular age, the role he performed and his level of maturity. The sentence in Nabaratnarajah's case reflected the fact that he was 25 at the time that he committed the offences and did not have all the mitigation that Mr Ravichandran had. Further, the judge did take into account the fact that Nabaratnarajah had no previous convictions and was of good character. Indeed, if it were not for those factors, his sentence would have been higher. He says that it is unfair, as he puts it, that Ravichandran would be able to be released on licence after doing 40 per cent of his sentence because the sentence imposed was 6 years' imprisonment, whereas he will have to do two-thirds of his 8-year sentence because of the length of the sentence. That is a consequence of the different early release provisions applied to those who are convicted and sentenced for offenders. That fact is not something that affects the correctness of the lengths of the sentences imposed. We would refuse leave to appeal against sentence. In those circumstances there is no purpose in granting the extension of time for appealing and we refuse that application.