



Press Summary

20 June 2024

Mueen-Uddin (Appellant) v Secretary of State for the Home Department (Respondent)

[2024] UKSC 21

On appeal from [2022] EWCA Civ 1073

Justices: Lord Reed (President), Lord Sales, Lord Hamblen, Lord Burrows, Lord Richards

Background to the Appeal

In this appeal, the Supreme Court is asked to decide whether the High Court was right to strike out as an abuse of process Mr Mueen-Uddin's claim against the Home Secretary for libel and breach of statutory duty pursuant to the General Data Protection Regulation. The claim concerns allegations published in a Home Office Commission for Countering Extremism report entitled "Challenging Hateful Extremism" ("the **Report**").

Mr Mueen-Uddin was born in East Bengal, which then formed part of Pakistan but is now Bangladesh. In 1971, Bangladesh became independent from Pakistan following a war of independence. Many atrocities were committed, including the abduction and murder of 18 prominent intellectuals. Mr Mueen-Uddin left Bangladesh in December 1971, after he became aware of allegations that he had been a member of the militia said to be responsible for the intellectuals' deaths. He denies having been involved in any violence. He arrived in the United Kingdom in 1973 and became a British citizen in 1984. He has held a number of prominent public and charitable positions in British society, and helped to set up the Muslim Council of Great Britain.

In 2013, Mr Mueen-Uddin was tried and convicted in his absence by the Bangladesh International Crimes Tribunal ("ICT") for war crimes, namely the murder of the 18 intellectuals. He was sentenced to death. The ICT was widely criticised internationally – including by the United Nations, foreign governments and human rights organisations – for failing to respect minimum fair trial guarantees and for lacking judicial independence. Mr Mueen-Uddin's conviction was reported by the media in the United Kingdom. The media reports noted the criticisms of the ICT, and that Mr Mueen-Uddin denied the charges against him and maintained that the trial was unfair and politically motivated.

In October 2019, the Home Office published the Report. A section entitled “What Extremism Looks Like in England and Wales” contained a footnote which stated that links between those responsible for the violence in Bangladesh in 1971 and community leadership in East London were well established, and referred to Mr Mueen-Uddin’s ICT conviction. In June 2020, Mr Mueen-Uddin issued proceedings against the Home Secretary. At a preliminary hearing, the High Court held that the words used in the Report meant that Mr Mueen-Uddin “(i) was one of those responsible for war crimes committed during a 1971 War of Independence in South Asia; and (ii) has committed crimes against humanity during a 1971 War of Independence in South Asia.” The High Court held that these allegations were defamatory.

The Home Secretary applied to have Mr Mueen-Uddin’s claim struck out on the basis that it was an abuse of the court’s process. The High Court agreed to strike out the claim, and its decision was upheld by the Court of Appeal. Mr Mueen-Uddin appeals to the Supreme Court.

Judgment

The Supreme Court unanimously allows Mr Mueen-Uddin’s appeal. It holds that the order striking out his claim as an abuse of process should be set aside, and that he should be permitted to pursue his claim against the Home Secretary at trial. Lord Reed gives the judgment, with which the other members of the Court agree.

Reasons for the Judgment

The Home Secretary relies on the court’s inherent power to prevent its process from being misused, or abused, in a way which would be manifestly unfair to one or more of the parties or would otherwise bring the administration of justice into disrepute. The primary purpose of this power is to preserve public confidence in the administration of justice [36]-[39]. The Home Secretary argues that Mr Mueen-Uddin’s claim is an abuse of process because it falls within two well-established categories of abusive proceedings. The first is known as “**Hunter abuse**” following the House of Lords’ decision in *Hunter v Chief Constable of the West Midlands Police* [1982] AC 529. The second is “**Jameel abuse**” following the Court of Appeal decision in *Jameel (Yousef) v Dow Jones & Co Inc* [2005] EWCA Civ 75 [41].

Hunter abuse arises where a claimant uses proceedings to mount a collateral attack on a final decision made by a court of competent jurisdiction in earlier criminal or civil proceedings. A claimant who wishes to challenge a decision made against him should normally do so by appealing that decision. The courts should not generally permit him to pursue new proceedings in order to re-litigate matters which he had a full opportunity to contest in the earlier proceedings [43]-[46]. Allowing this would give rise to a risk that the decisions in the two sets of proceedings would be inconsistent, bringing the administration of justice into disrepute [51]-[58].

Not every collateral challenge to earlier proceedings will amount to *Hunter* abuse. The *Hunter* principle only applies where the earlier proceedings were fair, and where they provided the claimant with a full opportunity to contest the court’s decision [44], [50], [52], [58], [59]-[62]. Accordingly, a collateral challenge to an earlier foreign criminal conviction will not necessarily amount to an abuse of process, particularly where there are concerns that the accused did not have a fair opportunity to put his case and to meet the case made against him. In cases of this kind, the court must judge the procedural quality of the earlier foreign proceedings [47]-[50].

Applying this to the present case, Mr Mueen-Uddin’s claim against the Home Secretary cannot amount to *Hunter* abuse because he did not have a full opportunity to contest the ICT’s decision to convict him. He was tried in his absence and was unable to give instructions to counsel

appointed to represent him. There was no real possibility of an appeal against the conviction [63]-[64].

Potential evidential difficulties for the Secretary of State in establishing a defence of truth do not render Mr Mueen-Uddin's claim an abuse of process. Mr Mueen-Uddin's claim is not stale, and was issued promptly after the Report was published. He is not responsible for any evidential difficulties the Home Secretary may face in proving the truth of the allegations, which are in any case a matter of speculation. If the Home Secretary will find it difficult to substantiate the allegations made about murders committed more than 50 years ago, that should have been considered before the allegations were published in the Report [65]-[71].

Defamation proceedings will be struck out on the basis of *Jameel* abuse if they do not serve the legitimate purpose of protecting the claimant's reputation because the damage suffered by the claimant is so trivial that it does not pass a minimum threshold of seriousness [72]-[81]. Mr Mueen-Uddin's claim against the Home Secretary is not abusive in the *Jameel* sense. The allegations published in the Report are plainly very serious, and Mr Mueen-Uddin is offering to prove that they have caused more than minimal damage to his reputation in the United Kingdom [6], [90]-[91].

The Court of Appeal was wrong to conclude that Mr Mueen-Uddin's claim was of little value because the Report could not have damaged his reputation. The effect of the publication on Mr Mueen-Uddin's reputation is a matter of fact to be determined at trial. The fact that the same allegations have previously been reported by other publications cannot be relied on in mitigation of damages, and Mr Mueen-Uddin's conviction by the ICT is not conclusive [90]-[110]. It should not be assumed that the people who read the relevant footnote in the Report must have had an unusually developed interest in its subject and would therefore already have been aware of the ICT conviction [111]-[115]. The Court of Appeal was also wrong to conclude that Mr Mueen-Uddin's claim could not possibly vindicate his reputation. Mr Mueen-Uddin has a legitimate interest in protecting his reputation against the extremely serious allegations the government has made against him. If he succeeds at trial, it is reasonable to expect that this would be a major vindication of his reputation [116]-[120].

Finally, the Supreme Court rejects the Home Secretary's submission that the court can consider matters relevant to *Hunter* and *Jameel* abuse together, so that even if neither type of abuse can be established on its own, considerations relevant to each of them can contribute cumulatively to the conclusion that Mr Mueen-Uddin's claim is an abuse of process. *Hunter* abuse and *Jameel* abuse protect different aspects of the public interest and have different rationales. The considerations relevant to each principle cannot therefore simply be lumped together [121]-[122].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)