

IN THE HIGH COURT OF JUSTICE

Claim No: HC-2016-002849

CHANCERY DIVISION

MR JUSTICE MANN

BETWEEN:

SIR CLIFF RICHARD, OBE

Claimant

-and-

**(1) THE BRITISH BROADCASTING CORPORATION
(2) THE CHIEF CONSTABLE OF SOUTH YORKSHIRE POLICE**

Defendants

STATEMENT IN OPEN COURT

Counsel for the Claimant (Justin Rushbrooke QC)

1. May it please you My Lord, in this action I appear for the Claimant, Sir Cliff Richard, OBE, with my learned friend Godwin Busuttil. My learned friend Adam Wolanski appears for the Second Defendant, who is the Chief Constable of South Yorkshire Police (or 'SYP').
2. This is a claim for misuse of private information, breach of Article 8 ECHR and breach of the Data Protection Act 1998. The First Defendant to this claim is the BBC. It plays no part in today's proceedings, for reasons which will become clear.
3. The Claimant is an internationally-renowned singer, recording artist, actor and philanthropist. He has sold more than 250 million records worldwide and is one of the biggest-selling artists in UK Singles history. He received an OBE in 1980 and was appointed Knight Bachelor in 1995.
4. In late 2013 officers working for the Metropolitan Police's 'Operation Yewtree' commenced an investigation into an allegation of sexual assault of a young male dating back to the mid-1980s that had been made against the Claimant. I wish to record that the allegation has always been vehemently denied by the Claimant, and that on 16 June 2016 the Crown Prosecution Service announced that he would face no charges in respect of this or any other allegation of a similar nature. He is therefore an innocent man in the eyes of the law.

5. In early July 2014 responsibility for the investigation was transferred to South Yorkshire Police on the basis that the alleged sexual assault was said to have taken place within South Yorkshire Police's area of operation.
6. Shortly after this, a regional crime correspondent working for the BBC, Dan Johnson, contacted SYP and informed them that he was aware of the investigation. On 15 July 2014 he met with SYP's Head of Communications, and the senior investigating officer.
7. There are outstanding issues of fact between the parties as to the amount of detail known by Mr Johnson when he approached SYP.
8. It is Sir Cliff's and SYP's case that Mr Johnson knew a considerable amount of information which amounted to a similar level of detail to that in the possession of SYP, and that he claimed to have been given his information by a source within Operation Yewtree. It is also Sir Cliff's and SYP's case that Mr Johnson made clear to SYP that he was in a position to broadcast a story naming the Claimant as the subject of the investigation and would do so with or without SYP's cooperation.
9. In these circumstances SYP says it decided to cooperate with Mr Johnson in order to protect the integrity of its investigation, and as a result it made disclosures of private information to him between 15 July 2014 and 14 August 2014 in return for agreement not to broadcast the story until the Claimant had executed a search warrant at the Claimant's home.
10. The BBC has claimed in its Defence that when Mr Johnson approached SYP all he told them was that he believed the Claimant was being investigated by SYP. The BBC contends that in the communications that then took place between them it was the voluntary decision of SYP to share with Mr Johnson the information that it did. It denies that Mr Johnson ever told SYP that he had been given information from a source within Operation Yewtree, or that he suggested he was in a position to broadcast a story naming the Claimant as the subject of the investigation, or that he suggested he would do so with or without SYP's cooperation.
11. My Lord, since the Claimant's claim against the BBC is continuing, it may be for the Judge at trial to resolve the conflict of evidence between SYP and the BBC on these issues. There is no dispute between the Claimant and SYP that:
 - (1) SYP confirmed to Mr Johnson the Claimant's identity as the person under investigation for the alleged offence,
 - (2) they discussed with him the fact that SYP was going to obtain a search warrant in respect of the Claimant's home, and that
 - (3) they agreed to cooperate with Mr Johnson by giving him, on an exclusive basis, information about the date and location of the search in advance of its being carried out.

12. There were further communications between SYP and Mr Johnson in the weeks which followed concerning the planned search. On 13 August 2014 SYP informed him that a search warrant would be executed the following day and gave him information which enabled the BBC to locate the Claimant's premises where it was to be carried out.
13. On 14 August 2014 SYP's officers, accompanied by officers from Thames Valley Police arrived at the Claimant's apartment to execute the search warrant. Thanks to the information provided to him by SYP, Mr Johnson was already at the location of the search along with a camera operator; and a helicopter with a camera crew on board also arrived at about the same time.
14. The Claimant was not in his apartment at this time but was staying in Portugal. He was first notified of the search at 09.58am by the management of the development where his apartment is situated. Shortly before 1pm the Claimant's solicitors, who had arrived on the scene, were notified, for the first time, of some details of the investigation.
15. This was followed almost immediately afterwards by the 1pm BBC News, which featured as its headline news item a story about the search, naming him as under investigation for an alleged historic sexual offence against a boy under 16. The story was accompanied by live on the ground reporting and nearly-live footage shot from the helicopter of the police carrying out the search. On the Claimant's case the story was sensationally-presented, although the BBC denies this.
16. The BBC News coverage also included an SYP Press Statement read out outside SYP's headquarters which confirmed that SYP officers had begun searching an address in Sunningdale in connection with an allegation of a sexual offence against a boy under the age of 16. Although this statement did not name the Claimant it was obvious that a statement in these terms given in conjunction with the BBC's coverage would serve to confirm his identity.
17. My Lord, SYP may have intended to protect the integrity of its investigation, as it claims, but it should not have made the disclosures to the BBC and cooperated with the BBC in the way that it did. SYP's actions facilitated the BBC's coverage, which caused such significant distress to the Claimant. These events have had a devastating effect on the Claimant: the BBC's coverage of the search was shocking, humiliating and embarrassing for him and attracted immediate worldwide attention, as a result he suffered profound and long-lasting damage and distress, and his reputation has been forever tainted.
18. Proceedings were issued on behalf of the Claimant on 6 October 2016. The Claimant sought general, aggravated and special damages for invasion of his privacy, breach of his rights under Article 8 of the European Convention on Human Rights (which guarantees a right to respect for an individual's private life and home) and/or breach of the Data Protection Act 1998.

19. It is also important that I record that the College of Policing's *Guidance on Relationships with the Media* (issued in May 2013), which was in force at the time of these actions, states that the names or identifying details of persons who are arrested or suspected of a crime should not be released to the press or public save in very special circumstances.
20. I am pleased to announce that SYP has now recognised that its conduct was unlawful, and has agreed to pay the Claimant a substantial sum by way of general and aggravated damages to compensate for its conduct, as well as appropriate sums in respect of the financial damage and legal costs incurred by the Claimant. It has also agreed to join in the making of this Statement in Open Court.

Counsel for the Second Defendant (Adam Wolanski)

21. My Lord, SYP accepts what my learned friend has said. SYP accepts that the Claimant's private information should not have been disclosed to the BBC and that its reason for doing so, namely to protect the integrity of its investigation, was not an adequate reason for disclosing that information. SYP acknowledges that its conduct in this regard was unlawful and offers its sincere apologies to the Claimant for the distress and humiliation he has suffered.

Counsel for the Claimant

22. In these circumstances Sir Cliff is prepared to let the matter rest against SYP.
23. His claim against the BBC has not been resolved and therefore continues.
24. He is pleased that he can draw a line under his claim against SYP and focus attention on bringing the claim against the BBC to trial as soon as possible.

26 May 2007

Simkins LLP
Solicitors for the Claimant

DWF LLP
Solicitors for the Second Defendant