

COURT OF APPEAL

McMURDO P
WILLIAMS JA
MACKENZIE J

CA No 107 of 2004

THE QUEEN

v.

LAKHMI GULABRAI DASWANI

Applicant

BRISBANE

..DATE 22/11/2004

JUDGMENT

MR A J MACSPORRAN (instructed by the Commonwealth Department of Public Prosecutions) for the Crown

MR P F GRAY (of Hollingworth & Spencer) for the applicant

THE PRESIDENT: On 25 March 2004, Mr Daswani pleaded guilty to a number of offences and was sentenced to an effective term of 12 years imprisonment with a recommendation for parole after four years and three months. On 20 April 2004, he applied for leave to appeal against sentence.

The matter was first listed for hearing on 6 August 2004. On that date, Mr Daswani's legal representatives asked for an adjournment of the matter and the Court adjourned it to a date to be fixed with directions that the parties follow the orders of the Deputy Registrar (Appeals) as to the preparation of the matter.

On 27 September 2004, the parties were informed the matter had been re-listed for hearing on 4 November 2004. On 29 September 2004, Mahoney & Hesford, Mr Daswani's previous legal representatives, wrote to him telling him that they could no longer act for him. On 20 October 2004, the Commonwealth DPP, the respondent, requested the hearing be adjourned because their counsel was unavailable. The Senior Deputy Registrar (Appeals) then re-listed the matter for hearing today, 22 November.

On Friday 19 November 2004, Mr Daswani's present legal representatives, Hollingworth & Spencer, wrote to the Court of

Appeal's Deputy Registrar informing him that they were now acting for Mr Daswani and that his instructions received on the previous day required further investigations with which the respondent may be able to assist. Mr Daswani engaged his present solicitors some time after first making telephone contact in mid-October.

Mr Gray, who appears today for Mr Daswani, tells us that the matter will be able to be prepared for hearing early next year but will not be ready this year. Mr Daswani is serving a lengthy sentence and is presently not eligible for parole before mid 2008. Although the respondent opposes the adjournment because the matters now raised do not seem to be greatly different to the matters raised before this Court on 6 August, the reality is that Mr Gray is simply not in a position to proceed with the hearing this morning.

Despite the long and unfortunate history of this matter, in all the circumstances, the interests of justice require the granting of this further adjournment. Mr Daswani must understand however that the next time this matter is listed for hearing it will be expected to proceed even if he has recently changed his legal representatives or is self-represented. Mr Gray, I request that you inform him of that forthwith.

MR GRAY: I shall, your Honour.

THE PRESIDENT: The order is the application for leave to appeal is adjourned to a date to be fixed. The parties are to follow the directions given by the Senior Deputy Registrar (Appeals) as to the filing of any new outlines of argument or material to be relied on by the parties.

WILLIAMS JA: I agree.

MACKENZIE J: I agree.

THE PRESIDENT: Yes. That is the order.
