



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2025-001580



Mohamed Amersi –v– British Broadcasting Corporation

CA-2025-001580

ORDER made by Lord Justice Warby

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: Permission to appeal refused

Reasons

1. The judge identified the principles stated in *Ashcroft v Foley* (see J[18-19]). He applied them to the pleading before him in a fashion that cannot reasonably be criticised.
 - (1) The allegations in dispute must be viewed in the context of other pleaded allegations the sufficiency of which is not challenged. Considered in that way they are plainly capable of supporting the defamatory meaning defended as true. As to the Kazakh Entertainment plea, it is clear that the defence case is not just one of providing entertainment. The nub of the pleaded case is that in order to secure favourable treatment by influential persons Telia acted corruptly by spending substantial sums of money on exceptionally lavish entertainment which went well beyond acceptable or conventional lobbying; the claimant was involved in this activity; and there are strong grounds for suspecting that he knew or should have known it to be corrupt. The defence contains sufficient contextual detail to support the inferential case that the Nurieyeva Payment was corrupt and not merely a fee for dispute resolution services.
 - (2) The judge was entitled to conclude, for the reasons he gave, that the detail provided was enough in all the circumstances. There is a tendency to read too much into the well-known proposition that a pleading should have the "particularity of an indictment". Section 3 of the Indictments Act 1915 requires simply "reasonable information as to the nature of the charge". Crim P R 10.2(1)(b) states that the particulars must "make clear what the prosecutor alleges against the defendant". The requirements in a defamation case are that the case should be sufficiently clear and precise to enable the party against whom it is advanced to understand it and prepare to meet it. This test has to be applied in a sensible and pragmatic way. The test also has to be applied in the knowledge that the party making the allegation will have to prove it and is obliged to give advance notice of the detail of their case via witness statements and documentary disclosure. The judge's approach cannot reasonably be faulted.
2. I can see no inconsistency between the pleading principles identified in *Ashcroft v Foley* and the grant of a "measure of generosity" to those alleging fraud. The reasoning on this point at J[23-24] is wholly convincing. In any event, I think this issue is academic in this case. Reviewing the judge's reasoning I do not detect that his approach was materially influenced by any "measure of generosity", still less a lax or forgiving approach to the sufficiency or particularity of the disputed aspects of the defence.
3. The judge gave himself appropriate legal directions as to the test for allowing an amendment. I can see no grounds for believing that he failed to apply that test. Speaking for myself, I see no real substance in the complaint in ground 3 that this aspect of the defence case "lacked conviction" or was speculative.

Signed: BY THE COURT

Date: 10 November 2025

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
- a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.

- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: