

Nadir bribe 'evidence' made public: Court transcripts raise questions over way the Serious Fraud Office handled allegations that an attempt was made to bribe trial judge. Tim Kelsey reports

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ALUN JONES QC, counsel for the Director of Public Prosecutions: '... I am instructed and feel it professionally right to tell your Lordship that the allegation that is being investigated is that the parties to the allegation of corruption are Mr Nadir; your Lordship . . .'

Mr Justice Tucker: 'Me?'

Mr Jones: 'Your Lordship; Mr Scrivener (Anthony Scrivener, former chairman of the Bar Council); and Assistant Commissioner Wyn Jones (of the Metropolitan Police).'

Mr Justice Tucker: 'Is there anyone else you are going to include?'

This exchange comes from the court transcripts describing one of the most bizarre incidents in recent British judicial history - a High Court judge was being told that he was allegedly a party to a plot to pervert the course of justice.

The plot, it was alleged, was the work of Asil Nadir, the former chairman of Polly Peck. He was plotting to bribe his judge, Mr Justice Tucker, in order to obtain his passport to flee the country and his impending trial. Nadir was facing more than 30 charges of theft and false accounting involving more than pounds 30m in connection with his management of Polly Peck.

Until yesterday, reporting restrictions and in-camera hearings covered all discussion of the transcripts. Those restrictions have now been lifted, after an application by Newspaper Publishing plc, owner of the Independent.

Six months before he was told of his alleged involvement in the plot, Mr Justice Tucker had learnt that he may have been the target of a bribery plot by Nadir. He was told the police might want to interview him. He was clearly shocked by those allegations, which he himself believed were without precedent.

In late March 1993, he was asked to stand down from the trial - it was argued that the simple fact that he had been identified at all might prejudice him in the eyes of a jury. He declined to do so.

The truth, as it emerges from the transcripts of the hearings, was that no substantive evidence to support the allegations was ever produced by the Serious Fraud Office, which first announced the existence of an investigation into such allegations, and later the Director of Public Prosecutions.

The only 'evidence' the police had was a photocopied document.

Earlier this month - a year after the allegations had first been raised in court - the Crown Prosecution Service issued a statement saying that there was no evidence.

The two principal witnesses, helping police with their inquiries, had earlier told the Independent that they made up the 'evidence'. They claimed to have done so at the request of the police - a claim denied by Scotland Yard. The transcripts raise questions about the way in which the SFO handled itself in court - and will come as an embarrassment (they have formally apologised to the judge for the manner in which they told him of his alleged 'involvement').

But they raise another question: why did Robert Owen, counsel for the SFO, tell the judge that he was likely to be interviewed by police, when several weeks later the investigating officer stated in court he had never made such a request?

The transcripts also reveal that some of the most senior law officers including the Attorney-General, Sir Nicholas Lyell QC, and the Director of Public Prosecutions, Barbara Mills QC, advised the SFO to inform the judge of the police investigation, and were kept fully briefed on its progress.

On 5 November 1992, the day before a routine hearing to discuss an application for the return of Nadir's passport, Mr Justice Tucker received a confidential document from the Serious Fraud Office, which was also sent to the Lord Chief Justice and the Attorney-General, stating that evidence had emerged that Nadir was creating a bribery fund of pounds 3.5m and that 'the sum of money was to be paid to Mr Justice Tucker'.

The following day, the judge, clearly shocked, told Robert Owen, SFO counsel: 'It is an astonishing document, and an astonishing suggestion.'

The transcript then continues:

Mr Owen: 'My Lord, that said, we consider that it is a matter that your Lordship will no doubt wish to consider and it is only right that I should mention that those responsible for the investigation instruct those instructing me that there is a probability that officers involved in the investigation would wish to interview your Lordship.'

'My Lord I am obliged to mention that because it may be relevant to the question of your Lordship's view of continuing to preside over this matter . . . '

Mr Justice Tucker: 'It is unprecedented.'

He then asks the defence if they have an objection to his hand remaining 'firmly on the tiller'.

Anthony Scrivener QC, for Nadir replies: 'May I take four points? The first is, with respect, it is of

the greatest constitutional importance that your Lordship retains this case . . . '

Justice Tucker: 'Mr Scrivener, I do not want to interrupt you but my principal concern is whether I am to remain in charge of this case or not . . . this is the first time I am told that an application may be made for me not to try it. I must say I am taken very much by surprise.'

Mr Owen: 'It was on the direct instructions of the Attorney-General that the matter was disclosed to your Lordship.'

Mr Justice Tucker: 'I am beginning to wonder who is in charge of this case, Mr Owen; whether it is me or whether it is the prosecution - it should be the judge.'

Mr Owen insists that the bail application cannot continue while 'this matter is under investigation and while there remains a question as to whether any application may be made for your Lordship to be discharged.'

Mr Justice Tucker: 'There is no precedent to guide me . . . what alarms me is the suggestion that someone may come and wish to interview me . . . I mean he (the

Attorney-General) better do something about it. I, meanwhile, will take advice as to my position in the case.'

Mr Owen intercedes: 'My Lord, may I explain that it is a matter on which the director of the SFO has consulted the Attorney-General from the outset . . .'

The next hearing occurred on 15 December, during which a police witness, Detective Chief Superintendent Tom Glendinning of Special Operations, New Scotland Yard, was called by the SFO.

Mr Glendinning confirmed that the 'evidence' for the allegation was contained in a photocopied document which purported to show relatives of Nadir setting up the bribery fund. He admitted he had never seen the original document.

'At the moment, we have no evidence whatsoever to support what is alleged in the letter,' Mr Glendinning said.

He then, apparently contradicting Mr Owen's statements at the last hearing, said he had never had plans to interview the judge.

Mr Scrivener, for Nadir, put this contradiction to the judge during another hearing on 17 December.

He asked who gave Mr Owen his instructions to tell the judge he may be interviewed.

But matters became more serious during yet another hearing in March this year. Mr Jones QC, representing the DPP, appeared in court. Mr Scrivener had made an application for the judge to stand down in view of the investigation. In the transcript, Mr Jones appears to support that application and in so doing delivers another surprise.

He tells the judge that allegations have been made to the police that he, Mr Scrivener, and Assistant Commissioner Wyn Jones were a party to the bribery plot.

Mr Jones tells the shocked court that there is now enough evidence to 'conclude that this allegation is not a hoax or a prank'.

He does not reveal the evidence to the court.

Mr Justice Tucker: 'Where does that take me, Mr Alun Jones? You have set a scene, you have told me nothing to substantiate any of this, you leave me completely in the dark.'

Mr Jones: 'I cannot do so because the matter is operationally sensitive.'

He says the DPP is concerned that if he remains trial judge he will be compromised.

Mr Justice Tucker retorts: 'I thought there was the assumption that Her Majesty's judges were incorruptible . . . this allegation has been in the air now for months . . . I was threatened with being interviewed, and nothing has come of that . . . now you come here, representing the Director of Public Prosecution suggesting I should disqualify myself without a shred of evidence.'

After being told by Mr Jones that he is also allegedly implicated, Mr Scrivener withdrew his application for the judge to stand down. He resurrected it later that month; but the judge decided to remain because 'he was not willing to have the trial destabilised or my position as trial judge undermined by allegations which, so far as I am concerned, are entirely without foundation, which have not been supported by any direct evidence implicating Mr Nadir.'

He had told Mr Jones at the previous hearing: 'Until this matter was raised in October, indeed raised with me, I think, in November, I had not the slightest idea what was going on and I still do not.'

(Photographs omitted)