

*Case Name:*  
**R. v. Sagar**

**Between**  
**Regina, and**  
**Manjinder Kaur Sagar**

[2010] B.C.J. No. 1899

2010 BCPC 237

90 W.C.B. (2d) 125

2010 CarswellBC 2561

File No. 70116-1

Registry: Abbotsford

British Columbia Provincial Court  
Abbotsford, British Columbia

**R.B. Caryer Prov. Ct. J.**

Heard: June 11 and 25, 2010.

Judgment: June 25, 2010.

(10 paras.)

**Counsel:**

Counsel for the Crown: T. Follett.

Counsel for the Defendant: B. Mohan.

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**RULING**

**1 R.B. CARYER PROV. CT. J.:**-- I found the accused guilty of the charge of providing false information to the ICBC adjuster, Ms. Hugh, in the course of an interview that the accused had with Ms. Hugh.

**2** The accused had made a dial-a-claim as a result of a motor-vehicle accident, for which she was not to blame, indicating that she was making a significant claim for injury. As I heard from the witnesses, the original claim was for total disability although that was only a temporary issue. Ms. Patterson testified that she deemed it to be a low-velocity impact and as a result was questioning the extent of the disability claim. As a result of that she arranged for a private investigator to follow Ms. Sagar.

**3** It is not for me to particularly comment on how ICBC goes about its business of determining which claims they are going to investigate at a greater depth than others. In this case they chose to investigate Ms. Sagar as a claimant claiming, in the initial instance, a total disability, albeit temporary. Within days the private investigator was following Ms. Sagar prior to her attending to ICBC. As a result of that the adjuster, Ms. Hugh, had information that Ms. Sagar had been grocery shopping at the Superstore prior to Ms. Sagar coming in to the interview with Ms. Hugh.

**4** Although it is not recorded verbatim, Ms. Hugh attempts to record the answers as close as possible to verbatim and in the course of the conversation Ms. Hugh asked Ms. Sagar if the accident had affected her ability to perform some of the normal chores in the household, including the grocery shopping. The net result was that Ms. Sagar had told Ms. Hugh that she had not been able to grocery shop since the accident and I have found that as a finding of fact. Ms. Hugh knew that Ms. Sagar had been shopping that day. I found Ms. Sagar guilty of the offence charged of providing false information to Ms. Hugh.

**5** Mr. Mohan, on behalf of Ms. Sagar, has raised the defence upon conviction of entrapment. Entrapment is not something that the courts see very often at all. It is a type of a defence that is reserved for egregious, serious conduct on the part of the state that would offend the community; it is the state engaging in conduct that, in essence, induces the commission of a criminal offence.

**6** In this case Mr. Mohan is making sort of a two-pronged argument, the first being Ms. Sagar did not have to attend to ICBC. They asked her to come in and provide a statement having already either initiated or planned on initiating her being followed by somebody, and she did not have to do that. She could have engaged counsel and simply filed her report of an accident as opposed to giving a statement as to anything else with respect to injuries, et cetera. He says that creates in it an onus on ICBC not only to treat her fairly but to not engage in any type of skulduggery type of behaviour. He also makes the point that ICBC, the agent, knowing the answer to the question, effectively entrapped Ms. Sagar to giving an answer to a question for which they already had the answer.

**7** With all due respect to Mr. Mohan, that is not the defence of entrapment. I will deal with Mr. Follett's arguments after. There is nothing that requires state authority to not ask a question for

which they already have the answer. There was nothing done to compel Ms. Sagar to give a false answer. If she had answered, "I shopped this morning," we would not be here.

**8** Mr. Follett has raised the argument that Ms. Hugh is not an agent of the state, is not engaged in the business of law enforcement and the defence entrapment only applies to law enforcement agents. I agree with that argument and I am satisfied in the circumstances of this case that Ms. Hugh was not engaged as a law enforcement officer as she was simply an adjuster and the opposite answer being given by Ms. Sagar would not have invoked any subsequent actions by the state.

**9** If I am wrong in that I am satisfied that this is not entrapment. This does not fit within the definition of entrapment as outlined in great detail in the decision of *R. v. Mack*, [1988] 2 S.C.R. 903. I have not read all 90-odd pages of the judgment but I am familiar with it and have read a significant portion of it.

**10** The defence just does not apply in these circumstances. The state is not prevented from asking questions of people. This was not importuning. This was not in any way persistently requesting Ms. Sagar to do something that she did not want to do, to do something that was illegal. It was simply a question and answer. The issue of whether it was recorded, the issue of whether or not we have all the material before is a matter that I dealt with in my findings of fact at the trial and in no way affects the issue of the doctrine of entrapment and I, therefore, dismiss the application to enter a judicial stay of proceedings based on the defence of entrapment, which does not apply.

R.B. CARYER PROV. CT. J.