



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

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Special Prosecutor Concludes Miscarriage of Justice Has Occurred

Victoria – The Criminal Justice Branch, Ministry of Justice, announced today that in September 2011, the then Assistant Deputy Attorney General for the Branch appointed Peter Wilson, QC as a Special Prosecutor to review a 2005 conviction for sexual assault against Gurdev Singh Dhillon. The review was initiated after the Branch became aware of evidence that was not made available to Crown Counsel or to the defence at the time of Mr. Dhillon's trial, or on his subsequent appeal from conviction. In light of the nature of the evidence, the Branch decided that an independent review of Mr. Dhillon's conviction was in the public interest, to determine whether a miscarriage of justice had occurred.

The Special Prosecutor has completed the review. Based on his consideration of the material as a whole, and in light of the issues raised at Mr. Dhillon's trial, the Special Prosecutor has concluded that a miscarriage of justice occurred. This conclusion relates to the fairness of Mr. Dhillon's trial based on non-disclosure to him of material evidence

The Special Prosecutor has recommended to the Criminal Justice Branch that Mr. Dhillon be provided with full disclosure of the materials reviewed by the Special Prosecutor and an opportunity to apply to have his conviction set aside, either by way of an application to the Supreme Court of Canada for leave to appeal, or by an application for ministerial review under Part XXI.1 of the Criminal Code. The Special Prosecutor recommends that it be left to the discretion of Mr. Dhillon and his legal counsel to determine which course of action to pursue.

Gurdev Singh Dhillon was convicted of sexual assault in October 2005 following a trial in British Columbia Provincial Court (Surrey). The offence was said to have occurred on July 7, 2004. The case against Mr. Dhillon included an in court identification of him as one of the perpetrators of the sexual assault, and other evidence of his presence at the scene. Based on the evidence before the Court, the trial judge was satisfied

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beyond a reasonable doubt that Mr. Dhillon was one of two men who were alleged to have sexually assaulted the complainant. Following his conviction, Mr. Dhillon was sentenced to four years in prison. Subsequent appeals to the Court of Appeal from both conviction and sentence were dismissed in 2006.

In 2011, as a result of ongoing investigation by police into the identity of the second alleged perpetrator of the sexual assault, Crown Counsel learned of the existence of material evidence that had not been disclosed to the Crown either at the time of Mr. Dhillon's trial or his appeal from conviction. Because this material was not in the possession of Crown Counsel, it was never disclosed to Mr. Dhillon or his counsel at any point.

On September 23, 2011, then Assistant Deputy Attorney General Robert W.G. Gillen, QC appointed Peter Wilson, QC as a Special Prosecutor to provide an assessment on whether a miscarriage of justice had occurred. If so, Mr. Wilson was given the authority to identify and take remedial steps to rectify the matter.

Mr. Wilson was given a further mandate to conduct a charge assessment review of any Report to Crown Counsel that might be submitted by the investigating agency in relation to other suspects in the case, and to take conduct of any prosecution and subsequent appeals should charges be approved against any other individuals.

An investigative report was subsequently delivered to Mr. Wilson by the Delta Police Department, who had assumed conduct of the investigation from the RCMP, and he has also completed his review of that report. Mr. Wilson has approved a charge of sexual assault against both Mohammed Zaaïd Ukhttar and Sital Singh Bhatti. An information charging these two persons with sexual assault was sworn on February 12, 2013 in Provincial Court in Surrey. A first appearance in the case has been scheduled for April 5, 2013 in Surrey.

Given that this matter now involves an ongoing prosecution, it would not be appropriate to release additional information on the review of Mr. Dhillon's conviction, or on the charges against Mr. Ukhttar and Mr. Bhatti.

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