[Remarks made on 7 April by HHJ Mansell QC at Manchester Crown Court (Crown Square), published the Judicial Office on the same date as PR 1743.]

**MUSTAFA BASHIR REVIEW OF SENTENCING**

Mustafa Bashir, on 21st March, I sentenced you to concurrent terms of imprisonment of 18 months on two counts of Assault ABH.

I suspended those sentences of imprisonment for a period of 2 years on condition that you undergo a supervision requirement and a programme requirement.

I have listed your case today for a review of that sentence pursuant to s155 of the Powers of Criminal Courts (Sentencing) Act 2000, following reports in the media suggesting that you may have misled the court as to your future career prospects.

I directed that you should produce evidence to support the claims you made that you had previously been offered a contract to play cricket for Leicestershire and that such offer remained open to you if you kept your liberty.

You have failed to produce any evidence to support those claims.

All that you have produced today is a handful of emails showing that you may have attended an indoor net session at Grace Road in December 2014, and an outdoor net session in April 2015.

There is a further email from you in December 2015 in which you enquire about the outcome of a trial you had attended at the club.

There is no evidence as to what team you were trying out for or what the outcome of such trial was.

The coach at Leicestershire with whom you were in email communication has made a statement to the effect that he does not recall you, which you would think he would, in light of the fact that you were considerably older than the majority of cricketers he was seeking to recruit for the club at that time.

Your name does not feature in the list of attendees at the trials held in 2015.

Therefore, in summary, there is not a shred of evidence that you were ever chosen to play for Leicestershire CCC, let alone that you had received an offer of a full-time professional contract.

It has been suggested by your counsel Mr Sastry, who has appeared today and acts on your instructions, that this is all an unfortunate series of misunderstandings, and that your past career achievements and future career prospects were accidentally over-stated.

I reject this submission.

You were interviewed by a probation officer, Michael Whalley, in advance of the hearing and told him you had played cricket for Pakistan Under 19’s.

You now submit that he misunderstood this and you only played for Islamabad in a national competition.

You also say he misunderstood you when he reported you had played *“semi-professional cricket for Leicestershire*”

Finally, you explain that when he reported that you were *“due to sign a contract with a team shortly before your arrest”*this was not with Leicestershire but with Methley CC in a Yorkshire-based league*.*

In his plea in mitigation, Mr McKee, acting no doubt on your instructions, submitted that if you were permitted to keep your liberty, you would be *“employed by Leicestershire as a professional”.*

He referred to the pre-sentence report and added that you had been “*about to sign a contract when you were arrested”.*

He is an experienced counsel and would not have made such a bold submission had you not instructed him that this was the case.

You claim that he has misunderstood the position but if that was the case, it begs the question why you did not speak up at the time and correct his mistake.

Your response is that you were emotional and not listening carefully to what was said in court and so did not hear what he said.

The evidence that gives the lie to your explanation advanced by you today is a letter that was submitted to the court on your behalf by your solicitors from a man named Abid Riaz, said to be a sports agent with the Pro Elite Sports Agency in Bolton.

He wrote that he had been your agent for several years and that you had played cricket for Pakistan at Under 19’s. Unlike the Probation Officer, it is hard to see how an experienced Pakistani cricket agent could have made such an error.

He also claimed he had arranged your trial at Leicestershire, of which there is no evidence.

He concluded his letter by saying that you had a “*very bright future ahead of you as you had been selected to play for Leicestershire County Cricket Club”.*

There was no misunderstanding here on the part of the probation officer, or Mr Riaz, or your counsel.

You were clearly making a claim to the court that you had a career in professional cricket ahead of you which was false.

You made that claim quite deliberately in the hope that you would avoid a prison sentence.

As I made clear when sentencing you, the appropriate sentence for these offences was 18 months’ imprisonment.

I then said the following –

*“The only issue for me to grapple with today is whether your good character; the delay since these offences; and your current situation – namely in a settled relationship with a partner who complains of no violence and who is supportive of you; your employment, which you have been in since April last year; as well as your prospective employment, which is offered in cricket for Leicestershire County Cricket Club; whether all those factors taken together can save you from serving that sentence today. I have to tell you that it is a very finely balanced decision, because the court simply will not tolerate violence in a relationship of this nature.”*

It was only because of the combination of all those mitigating factors I referred to - but particularly your new relationship and your future career prospects - that I took the exceptional course I did.

Therefore, now that it has come to light that a fundamental aspect of your plea in mitigation was false, I have no hesitation in varying the sentence and imposing immediate sentences of imprisonment, which I would have passed had I known the true position.

I stress that I am not altering my sentence to punish you for lying to the court. You may well face investigation into whether you have committed quite separate offences of perverting the course of justice.

I am altering my sentence because I was fundamentally misled by you as to your personal circumstances.

The sentence on each count on the indictment is therefore an immediate term of imprisonment of 18 months concurrent on each count.

You will serve half the 18 months in prison, then will be released on licence.

You are liable to be recalled at any time if you breach the terms of your licence or reoffend.

All other aspects of the sentence stand, including the restraining order which will apply indefinitely, as well as the order for costs.

**VULNERABILITY**

I now intend to revisit the comments I made on the last occasion concerning the vulnerability of the victim in this case, Fakhara Karim.

I do so because there has been widespread misreporting of my remarks and widespread misunderstanding of why I made them.

Having set out in some detail the facts of the case, all of which I accepted as truthful and accurate from the victim’s witness statements, I turned to sentence and said the following –

*“These were two very serious offences of violence against your former partner. I am not convinced on the guidelines that she was particularly vulnerable due to her personal circumstances”*

The words *"particularly vulnerable due to her personal circumstances*" are taken from the Sentencing Guidelines Council definitive guideline for offences of Assault, which I was bound to and did follow.

This is one of three factors that the court is required to consider in determining the harm caused by the offence.

Particularly vulnerable means *especially*vulnerable, *exceptionally*vulnerable or *unusually*vulnerable*.*

There is a second guideline for sentencing in cases of domestic violence to assist judges with what this means in practice.

Victims who are very young or old, who are physically or mentally disabled, and female victims who are pregnant, are all to be treated as particularly vulnerable.

The guideline also contains the following paragraph:

“*For cultural, religious, language, financial or other reasons, some victims of domestic violence may be more vulnerable than others, not least because these issues may make it almost impossible for the victim to leave a violent relationship”*

It was to this passage that I was referring when I gave the example of a woman who comes to the UK from a foreign country to live with her husband or partner, leaves her friends and family behind, makes few if any friends here and struggles with the language, with the result that she becomes effectively trapped in a violent relationship.

In referring to the fact that Miss Karim was an intelligent woman, who had worked as a receptionist and studied at university, and who had a network of friends, I was simply highlighting the fact that she had a degree of independence and support that some victims, whose circumstances are different, do not.

I was doing no more and no less than making a finding, in accordance with the sentencing guidelines, that she was not *particularly*vulnerable as compared with other victims whose personal circumstances are different.

She was, however, plainly vulnerable, as my sentencing remarks made perfectly clear.

She was vulnerable before the assaults started, because of the controlling behaviour of the defendant, which had distanced her from her family and friends, and which had undermined her confidence.

She was vulnerable after the assaults due to the ongoing psychological effects on her of the defendant’s violence.

I stated clearly that this was an aggravating factor and increased the starting point for sentence.

I referred in detail to her Victim Personal Statement, in which she described how she had been confident, active, humorous and positive about the future before the assaults.

I observed how, following the assaults, her confidence went down, she started to hide away from friends and family and her studies were affected.

I also noted that the most significant effect on her was that she now had issues with trusting people, and particularly men, and that she believed she would find it very difficult to trust another man in future.

I am concerned that the misreporting and misunderstanding of my remarks may have given Miss Karim the impression that I did not believe her account as to the effect these offences have had on her, or that I did not consider her to be vulnerable.

I trust that she will be given a copy of the transcript of my sentencing remarks on the last occasion and a copy of the remarks I have made today, copies of which are also available for the Press.