

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Anand, 2012 ONCA 857

DATE: 20121204

DOCKET: C54353

Rosenberg, MacPherson and Pepall JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Anil Anand and Ashwani Anand

Appellants

Leora Shemesh, for the appellants

Amy M. Alyea, for the respondent

Heard: December 3, 2012

On appeal from the conviction entered on January 26, 2011 by Justice Frank N. Marrocco of the Superior Court of Justice, sitting without a jury.

APPEAL BOOK ENDORSEMENT

[1] The principal submission by the appellants is that the production order should not have been granted because of the failure to disclose the statutory declarations and exhibit and that the information did not support the granting of the order.

[2] We agree with the trial judge that had the statutory declarations been disclosed it would not have led to a different result. The difference between the invoice and the quote was not material. There were grounds to believe that tracing the funds through the bank documents would assist in the investigation.

[3] The trial judge properly found that the personal documents should not have been sought and there was therefore a s. 8 violation. But, we also agree with the trial judge that the evidence should not have been excluded under s. 24(2). The officer was clearly careless but in the circumstances this did not render the violation so serious as to lead to exclusion given the minimal impact on *Charter*-protected interests and the reliability of the evidence.

[4] As to the trial proper, the evidence was overwhelming. While the appellants raised various arguments as to why the appellants might not have been involved in Mr. Pal's fraud, on this record those arguments were mere speculation.

[5] Accordingly, the appeals are dismissed.