

## Sector: Regulatory Law



### Type

Motoring Offence Allegations

### Summary

Tej Thakkar successfully defended a client that was charged with two linked motoring allegations, namely: inconsiderate driving and subsequently failing to provide information relating to the identification of a driver alleged to have been guilty of an offence.

### About the allegations

The particulars of these allegations related to various police officers attending a single vehicle road traffic collision on a dual carriageway on 24 December 2020. The police had initially attended the scene and closed the westbound carriageway in order to make it safe and to recover the stricken vehicle concerned, which consequently caused a long, stationary, queue of traffic to form. The officer first attending to this matter then claimed to have observed the client's vehicle on the opposite side travelling at speed, undertaking one car and cutting up another. The client vehemently disputed this aspect of the alleged conduct.

Further, several minutes later, the client (and his vehicle) was identified as being present at the scene of the collision itself (now on the same side of the carriageway) and seeking to attend to his family members that were involved in the incident. Additional officers subsequently travelling to the scene said they had witnessed the client's vehicle driving along the central reservation area which caused other vehicles in the stationary traffic to take 'evasive action' whilst they made way for the police's marked car approaching from behind. Notably, the client wholly accepted driving along the central reservation area, but explained that he did so at a very low speed, with hazard lights illuminated and was not aware of any such vehicles being required to adopt any steps to avoid a potential accident from occurring.

Notwithstanding, the police also driving along the central reservation area and being wholly aware of the affiliation between the client and those persons involved in the collision, they asserted that the client's standard of driving was nevertheless inconsiderate to other road users and fell below that of a reasonable and competent driver.

A police officer spoke to the client at the relevant time and was described to have adopted a somewhat hostile stance. Nonetheless, having acknowledged the relevant circumstances, the officer sought to initially resolve the matter by way of an informal verbal warning thus did not exercise his right to request the client's personal (driver) details. However, a few days later, the police appeared to have altered their stance and in turn endeavoured to serve upon the client a Notice of Intended Prosecution. The client did not receive this Notice and, several months later, he received documentation from the Court that criminal proceedings were issued against him in respect of these two motoring allegations. The client formally tendered 'not guilty' pleas to the respective charges and the contested trial was scheduled before the Court during October 2021.

### Team member who led on the matter



Tej Thakkar

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### What our client thought

*"Thank you again for all your help. I'm very pleased with the outcome. Your service was spot on, very professional, and highly recommended."*

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## How Birkett Long assisted:

The client disputed and denied each of the specified charges, both factually and having regard to the prevailing circumstances. Accordingly, Tej obtained the client's precise instructions in the context of the claims postulated by the prosecution witnesses (three police officers) in their respective written statements, all of whom had acknowledged the client's reasons for attending the scene of the collision. Thus, Tej advised and assisted the client with the preparation of a defence case statement (which is a voluntary process in the Magistrates Court), which in summary:

1. Provided a precis of the precise basis of the client's defence (duress of circumstances/ necessity);
2. Identified the factual and evidential shortcomings of the prosecution's case as presented; and
3. Itemised the further material that ought to have been collated and retained in the course of the police's investigation process in bringing these charges, and which objectively is reasonably considered to undermine the prosecution's case and/or assist the defence.

Once the defence case statement was served, and lodged with the Court, Tej implored the prosecution to conduct a full review of its case against the client in accordance with its ongoing obligations. Tej liaised with the prosecuting authority throughout to manage the process and preserve the client's interest. As a result, and shortly before the commencement of the trial process, the prosecution issued a Notice of Discontinuance in respect of both allegations.

Accordingly, the client was formally dismissed by the Court in respect of the two alleged offences. Moreover, the Court granted the application made by Tej for a Defendant's Costs Order, which enables the client to recover a proportion of the monies he spent on legal fees in defending these allegations and proceedings. The client was invariably happy with the outcome of this matter, and extremely grateful for the assistance given to him by Tej.

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