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IN THE GUILDFORD CROWN COURT
(Indictment No. T2009/0070).

THE QUEEN

-v-

SEEMA MISRA

FURTHER AMENDED DEFENCE CASE STATEMENT PURSUANT TO SECTION 5 OF THE CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

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1. No admissions are made as to the Prosecution case.
2. If called upon to establish a Defence, the following statement is served in accordance with the provisions of The Criminal Procedure and Investigations Act 1996.
3. This statement is served without prejudice to the Defendants' rights to challenge the admissibility of any evidence relied on by the Prosecution.
4. This further Defence statement is submitted at the request of the prosecution. It is confirmation of the further oral Defence Case Statement submissions made to Guildford Crown Court, and the prosecution, on 14/7/09, 10/11/09 and 20/11/09. These submissions followed on from the Computer weekly magazine article dated 12-18th May 2009 which was produced when the case was listed for trial on 30/05/09 and which resulted in the adjournment of the trial. This also follows the disclosure requested in each of the two Defence Expert reports of Professor McLaughlin dated 21/09/09 (and served on the prosecution on 01/10/09), and 19/11/09 (served on the prosecution on 20/11/09), and disclosure request served on the Prosecution on 30/11/09 which contained a Defence witness statement from Mrs. Eleanor Nixon, dated 25/11/09, which all clearly set out the issues raised by the Defence as to the veracity/accuracy and fallibility of the Post Office computerized accountancy system called 'Horizon'.

General Nature of Defence:

5. In furtherance of the above documents set out in paragraph 4 above, and the defence statement dated 20th March 2009 the defendant will also assert the following:

a) The defendant took over the running/proprietorship of the West Byfleet post-office on 29/6/05, which included the Horizon computing system, and commenced trading on 30/06/05. Thereafter she received a two week training period which was:

(i) For the first week of trading from 30/06/05 training on the Post Office Horizon system was conducted on site by the Post Office trainer Junaid. During this weeks training accounting losses arose each day from day 1. Initial comment by Junaid was that errors may have arisen during entry so would correct themselves at the Wednesday weekly reconciliation. When losses still existed on the first Wednesday, Junaid advised that the losses should be made good or rolled over and that in due course an error notice would be received correcting the figures. At no time during the Defendant's tenure as sub-postmaster at West Byfleet did she receive a credit error notice.

(ii) For the second week for trading training was conducted on site by the Post Office trainer Michael. Accounting losses again arose on a daily basis. Michael contacted the Helpline indicating that he was unable to explain these losses. Michael advised that the losses should be made good or rolled over and that in due course an error notice would be received correcting the figures. At no time during the Defendant's tenure as sub-postmaster at West Byfleet did she receive a credit error notice.

b) Between 30/6/09 and October 2005 the losses increased and despite calls to the Help-Line the cause of the losses could not be discovered.

(i) In October 2005 the defendant's line manager was Ms Tomika Springer, to whom the defendant requested assistance in using the Horizon computer and, also, an audit.

(ii) An audit check was carried out in October 2005 by Post Office auditors Dipak, Alan and Keith, which resulted in a £5,000 loss, and

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for which the defendant had to settle on monthly instalments. Alan gave the Defendant a warning, in no uncertain terms, that any losses over £500 would result in suspension and loss of the Post Office.

c) These losses, together with the fact they were continuing after the audit, caused the defendant to be concerned as to the integrity of her staff and whether further training was necessary. To assist in overcoming this problem and to help identify the loss the defendant organised that the 3 post office tills would be separate for audit trial purposes. Each would be separately accountable. This in turn caused suspicion to fall upon, firstly, Shakher Saxsena, and, later, Javed Badiwalla. The Defendant was satisfied that Shakher Saxsena was not accountable.

d) An incident arose with Javed Badiwalla over inaccuracies in his till. He had recorded on his till within the Horizon system that £6,000 cash was transferred to the safe, whereas only £4,000 - £5000 in cash was handed to the Defendant. This led to complaints and promises by him that the loss would be settled, but it was not. This was at the end of March 2006. The Defendant sacked Javed Badiwalla forthwith.

e) Soon after this incident his sister-in-law, Nadia Batliwala, who also worked for the Defendant, allegedly transferred £1000 from her till to the safe but no cash was handed over. Nadia Batliwala admitted this theft in the presence of a police officer and agreed to repay the sum of money. Because of this agreement the Police did not pursue the allegation and issued the matter with incident number P2830677.

f) These thefts caused the defendant to be distrustful of her staff, and give further attention to the accounting problems shown in the Horizon system, because according to the Horizon system losses increased to £80,000 by the summer of 2006.

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6) Due to the losses continuing to arise, in a manner which the Defendant could not understand or explain, the Defendant formed the opinion in 2006 that she should sell the business including the Post Office at the earliest opportunity. However because of warnings given by the auditors at the October 2005 audit, the Defendant, being aware that immediate sale of the business would bring to light the losses, feared suspension and the loss of the Post Office and the knock on effect this would have on the sale of the business.

7) She could not afford the loss of the Post Office in the branch and so she set about partly meeting short falls by putting her own and family money into the Post Office accounts and falsifying the records.

8) The losses continued until 14/1/08 when they amounted to £74,609-84p. At no time has she understand how the losses have continued to accrue. Because she knew she had taken no money dishonestly from the Post Office and because two employees admitted theft, she merely thought the losses were caused by theft and/or incompetence.

9) It was only when alerted to possible Horizon computer accounting errors in May 2009 that this cause of her losses became of concern to her.

10) The defendant on numerous occasions between July 2005 and January 2008 had spoken to the Post Office Helpline to raise her concerns as to the functioning of the machine. An example is that losses would double if a re-declaration was carried out at the request of the Helpline.

11) In this event enquires were made as to the veracity of the Horizon compute system by the Defence. This resulted in the forensic IT Expert, Professor McLaughlin, being instructed, and the production of his interim reports dated 21/09/09 and 19/11/09.

12) The general defence is, therefore, that there have been unquantifiable thefts by former employees causing loss, but this has been compounded by operational faults in the Horizon computer system.

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Matters on which issue is taken.

13. The assertion the defendant was dishonest at any stage.
14. The general nature of the issues between the Prosecution and the Defendant is clear from the detail set out above, but in principal the accuracy of any computing/accounting information, and documentation emanating from the Horizon computer at these premises at West Byfield between June 2005 and 14th January 2008 is disputed.

Reasons.

15. The defendant denies any alleged dishonesty.

REQUEST FOR DISCLOSURE

16. The Defendant repeats the requests set out in the s8 application listed to be heard on 20/11/09, and which still awaits answers.
17. The Defendant repeats the requests set out in a further request for disclosure served on 13/11/09, and which still awaits answers.
18. At the s8 hearing on 20/11/09 Prosecuting Counsel indicated his opinion that some of the requests may have been widely framed. In order to assist the Prosecution, Defence Solicitors agreed to submit a further comprehensive request for disclosure and this was duly served on 30/11/09. The Defendant repeats the requests set out in that document, and which still awaits answers.
19. In addition the Defendant requests the following:-
    - i) A copy of the audit result carried out in October 2005.
    - ii) Notes taken by Dipak, Keith and Alan during that audit.
    - iii) The name and contact details of the trainer, Junaid.
    - iv) The contact details of Tomika Springer and any notes taken by her in relation to the Defendant and her tenure at West Byfleet Post Office.
    - v) Copies of any error notices served on the Defendant between June 2005 and January 2008.
    - vi) Copies of any documents held by Surrey Police in relation to

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incident number P2830677

20. The defence aver that all these requests are reasonable and that the information is disclosable. The Prosecution have been aware since the 30/05/09 that the Defendant took issue with the operation of the Horizon system which is why she applied for, and was granted, an adjournement of the trial due to commence on that day.

Signed ....

Dated ....