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| cid:image001.jpg@01D72252.19B69DE0  **SUPREME COURT OF CANADA** | | | |
| **Citation:** R. *v.* Morrow, 2021 SCC 21, [2021] 1 S.C.R. 864 |  | **Appeal Heard:** May 19, 2021  **Judgment Rendered:** May 19, 2021  **Docket:** 39456 |
| **Between:**  **Tanner Jay Morrow**  Appellant  and  **Her Majesty The Queen**  Respondent | | | |

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| **Coram:** Moldaver, Karakatsanis, Côté, Rowe and Kasirer JJ. | | |
| **Judgment Read By:**  (paras. 1 to 3) | Moldaver J. |
| **Dissent Read By:**  (para. 4) | Côté J. |
| **Majority:** | Moldaver, Karakatsanis, Rowe and Kasirer JJ. |
| **Dissent:** | Côté J. |
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Tanner Jay Morrow Appellant

v.

Her Majesty The Queen Respondent

**Indexed as: R. *v.* Morrow**

2021 SCC 21

File No.: 39456.

2021: May 19.

Present: Moldaver, Karakatsanis, Côté, Rowe and Kasirer JJ.

on appeal from the court of appeal for alberta

*Criminal law — Obstructing justice — Elements of offence — Dissuading or attempting to dissuade person by threats, bribes or other corrupt means from giving evidence — Accused convicted of obstructing justice after going to complainant’s home to provide her with information as to how she could withdraw charges recently laid against him for criminal harassment — Trial judge holding that accused’s actions were wilful and done in attempt to dissuade complainant from giving evidence — Majority of Court of Appeal concluding that inference that accused applied pressure on complainant for improper purpose was available on record and affirming conviction — Dissenting judge would have set aside conviction on basis that accused’s communication of information about withdrawing charges was not illicit and did not constitute threats, bribes or other corrupt means — Conviction upheld — Criminal Code, R.S.C. 1985, c. C‑46, s. 139(3).*

**Cases Cited**

By Côté J. (dissenting)

*R. v. Crazyboy*, 2011 ABPC 369.

**Statutes and Regulations Cited**

*Criminal Code*, R.S.C. 1985, c. C‑46, s. 139(3).

APPEAL from a judgment of the Alberta Court of Appeal (Paperny, Slatter and Antonio JJ.A.), 2020 ABCA 407, 458 D.L.R. (4th) 5, [2020] A.J. No. 1243 (QL), 2020 CarswellAlta 2169 (WL Can.), affirming the conviction of the accused for obstructing justice. Appeal dismissed, Côté J. dissenting.

*H. Markham Silver*, *Q.C*., and *Andrea L. Serink*, for the appellant.

*Andrew Barg*, for the respondent.

The judgment of Moldaver, Karakatsanis, Rowe and Kasirer JJ. was delivered orally by

[1] Moldaver J. — A majority of the Court is of the view that the appeal should be dismissed, substantially for the reasons of the majority of the Court of Appeal at paras. 16 and 17 of its judgment. As the majority observed, the record clearly supports the inference drawn by the trial judge that Mr. Morrow’s conduct represented an attempt to dissuade the complainant, by corrupt means, from giving evidence. Mr. Morrow knew he had recently been charged with criminal harassment and that he was bound not to contact the complainant. Despite this, he attended her home uninvited and engaged her in a prolonged and distressing discussion about the process for withdrawing the charges and her reasons for bringing them. The complainant testified that the exchange made her feel “[p]ressured to please” Mr. Morrow and to get him out of the house (A.R., vol. II, at p. 30). Shortly thereafter, Mr. Morrow sexually assaulted her, which served to exacerbate her concerns. On the basis of this evidence, it was open for the trial judge to find that Mr. Morrow’s intention was to apply pressure on the complainant and ultimately to manipulate her into dropping the charges against him. The fact that Mr. Morrow may have also been motivated by a desire to rekindle his relationship with the complainant did not undermine the availability of this finding.

[2] There was also evidence that contradicted Mr. Morrow’s position that he was simply responding to a request for information. The complainant made no such request to Mr. Morrow and she did not expect, nor was she interested in, the information he provided.

[3] In these circumstances, and having regard to the fact that survivors of domestic abuse are particularly vulnerable to acts of intimidation and manipulation, the trial judge’s verdict was reasonable. There is no basis for appellate intervention.

The following are the reasons delivered orally by

[4] Côté J. (dissenting) — The wording of the charge required evidence that the appellant attempted to dissuade the complainant “by threats, bribes or other corrupt means from giving evidence” (A.R., vol. I, at p. 2). There is no such evidence here. The appellant’s behaviour cannot, in this case, be characterized as a “corrupt means” within the meaning of s. 139(3) of the *Criminal Code*, R.S.C. 1985, c. C‑46. Appealing to or preying on affection are means of persuasion just like appealing to or preying on reason. Nothing in the circumstances of this case makes these means of persuasion “corrupt”. The trial judge erred in finding otherwise. His reliance on *R. v. Crazyboy*, 2011 ABPC 369, was inapposite for two reasons. First, no finding of “corrupt means” was made in that case, as the wording of the charge did not require any. Second, Mr. Crazyboy attempted to manipulate the complainant and incited her to adopt an illegal behaviour by fleeing from her home so that she would not be brought before the court to give evidence. Here, the appellant merely provided information as to the process for withdrawing charges. Like Slatter J.A., I am of the view that the conviction for attempting to obstruct justice is not made out on this record, and that the conviction is unreasonable. I would therefore allow the appeal and enter a verdict of acquittal.

*Judgment accordingly.*

*Solicitors for the appellant: H. Markham Silver, Calgary; Serink Law Office, Calgary.*

*Solicitor for the respondent: Attorney General of Alberta, Calgary.*