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| cid:image001.jpg@01D72252.19B69DE0  **SUPREME COURT OF CANADA** | | | |
| **Citation:** R. *v.* Sheikh, 2021 SCC 13, [2021] 1 S.C.R. 523 |  | **Appeal Heard:** April 16, 2021  **Judgment Rendered:** April 16, 2021  **Docket:** 39372 |
| **Between:**  **Her Majesty The Queen**  Appellant  and  **Abbas Sheikh**  Respondent | | | |

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| **Coram:** Wagner C.J. and Moldaver, Côté, Rowe and Kasirer JJ. | | |
| **Judgment Read By:**  (paras. 1 to 5) | Wagner C.J. |
| **Majority:** | Wagner C.J. and Moldaver, Côté and Rowe JJ. |
| **Dissent:** | Kasirer J. |

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Her Majesty The QueenAppellant

v.

Abbas SheikhRespondent

**Indexed as: R. *v.* Sheikh**

2021 SCC 13

File No.: 39372.

2021: April 16.

Present: Wagner C.J. and Moldaver, Côté, Rowe and Kasirer JJ.

on appeal from the court of appeal for quebec

*Criminal law — Appeals — Unreasonable verdict — Evidence — Assessment — Adverse witness — Accused convicted of one count of fraud over $5,000 — Accused appealing on ground that verdict was unreasonable because it was based on insufficient circumstantial evidence, and on ground that fairness of trial was breached because his accomplice’s testimony as Crown witness constituted propensity evidence — Majority of Court of Appeal holding that evidence did not establish commission of fraud beyond reasonable doubt and that Crown could not cross‑examine accused’s accomplice without seeking leave from trial judge to have recourse to s. 9 of Canada Evidence Act — Dissenting judge finding that verdict was not unreasonable and that accomplice’s testimony was highly relevant and was not propensity evidence — Conviction restored — Canada Evidence Act, R.S.C. 1985, c. C‑5, s. 9.*

**Statutes and Regulations Cited**

*Canada Evidence Act*, R.S.C. 1985, c. C‑5, s. 9.

APPEAL from a judgment of the Quebec Court of Appeal (Bich, Vauclair and Schrager JJ.A.), 2020 QCCA 1266, 462 D.L.R. (4th) 675, [2020] AZ‑51712402, [2020] J.Q. no 6801 (QL), 2020 CarswellQue 17104 (WL Can.), setting aside the conviction entered by Beauchemin J., 2017 QCCQ 20841, [2017] AZ‑51591017, [2017] J.Q. no 24190 (QL), 2017 CarswellQue 13438 (WL Can.) and entering an acquittal. Appeal allowed, Kasirer J. dissenting.

*Simon Lacoste*, for the appellant.

*Alexandre Tardif*, for the respondent.

English version of the judgment of the Court delivered orally by

[1] The Chief Justice — The Crown appeals as of right from a decision in which a majority of the judges of the Quebec Court of Appeal acquitted the respondent on charges of fraud against him.

[2] The Crown submits that the Court of Appeal erred in concluding that the verdict of guilty was unreasonable and that the trial was unfair because, in particular, of the Crown’s failure to have recourse to s. 9 of the *Canada Evidence Act*, R.S.C. 1985, c. C‑5, during the testimony of witness Vallières, and of an inadequate assessment of the circumstantial evidence.

[3] Essentially for the reasons of Schrager J.A., a majority of judges of this Court are not convinced that the Crown’s failure to have recourse to s. 9 of the *Canada Evidence Act* made the trial unfair, and they agree with Schrager J.A. that the verdict was not unreasonable.

[4] Kasirer J., essentially for the reasons of the majority of the Court of Appeal, would have dismissed the appeal.

[5] For these reasons, the appeal is allowed and the verdict of guilty restored.

*Judgment accordingly.*

*Solicitor for the appellant: Director of Criminal and Penal Prosecutions, Longueuil.*

*Solicitors for the respondent: Tardif et associés, Sherbrooke.*