

R v Rankine [1986] QB 861

‘Informants protection – Observation posts’

Two police officers, with the assistance of an image intensifier, observed the accused from a distance of some 65 yards. They radioed a description of what they observed to another officer who arrested the accused for supplying cannabis. It was the prosecution case that on ten occasions in the previous hour the accused had been observed selling drugs outside a shop. In the absence of the jury, the prosecutor sought a ruling that the police officer witnesses should not be asked questions that would identify the location of the observation post. The application was made on two grounds. Firstly, the observation post would lose its utility if its location became known. Secondly, it was felt that persons who had provided the observation post would, or could, be placed in jeopardy from persons who disapproved of co-operation with the police. The judge ruled that he would not compel officers to answer questions to which they objected on the basis that the answers might embarrass the sources of co-operation. The accused was convicted and appealed on the grounds that the judge was wrong in law in permitting the prosecution not to disclose the observation point from where the identification was made.

Dismissing the appeal, the Court recited the authorities which had established the very clear principle that the identity of informants who assist the police should not be disclosed unless non-disclosure would result in a miscarriage of justice. The question to be determined was whether this rule extended to protect the identity of those who had allowed their premises to be used for surveillance, and the identity of the premises themselves. In the Court's judgment, the reasons which gave rise to the rule applied with equal force to the identification of the owner or occupier of the premises used for surveillance, and to the identification of the premises themselves. The judge had been correct in not exercising the duty exceptionally to admit the evidence in relation to the observation post in order to avoid a miscarriage of justice.

This case needs to be read in the light of the later case of **R v Johnson** [1988]. In addition, the case confirmed that the general rule is indeed a rule of exclusion with a duty to admit the evidence if necessary to avoid a miscarriage of justice. The judge did not have a discretion in the matter. Even if the prosecution do not invoke the rule, the judge is obliged to apply it.

*The interpretation and comments made within this document are not to be considered as legal advice.
Reference should always be made to the original case.*