

**IN THE SUPREME COURT OF THE UNITED KINGDOM**

**Between**

**Justine  
(Appellant)**

**- and -**

**The Machine Learning and Automation (MALA) Centre  
(Respondent)**

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**STATEMENT OF AGREED FACTS**

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**The BELREX University and MALA Centre**

1. The Believe Research Expedition (BELREX) University is a top-ranked computer science university. The Machine Learning and Automation (MALA) Centre is a state-of-the-art robotics facility on its campus. Deployment of all personnel throughout BELREX University and across departments are controlled by a central manpower unit in the MALA Centre.
2. The MALA Centre runs a “Dynamic Automation and Logic Algorithms (DALA)” programme with BELREX University. Under the DALA programme, students from BELREX University can work on the premises of MALA Centre and use its facilities to complete their thesis. These students are mentored by BELREX academics.
3. On the premises of the MALA Centre, DALA candidates are directed to follow the instructions of the MALA staff. Candidates are also issued key fobs which allow them to access restricted areas of the lab. Such access is fully controlled by the MALA Centre.

**Floods in West Sussex**

4. Storm Kathleen hit West Sussex on 9<sup>th</sup> April and caused the river Arun to overflow. West Sussex experienced damaged buildings and infrastructure, complicating rescue efforts. Leading academics of BELREX University were commissioned to run computer modelled simulations of the floods to refine search and rescue strategies. Candidates of the DALA programme were “roped in” to use their specialisation in robotics to further assist the operations.
5. On 10<sup>th</sup> April, the MALA Centre sent an email to all DALA candidates, informing them that they are to help with the manpower situation “by virtue of a joint decision between the MALA Centre and BELREX University”. The MALA Centre will provide training and equipment. BELREX University had also emailed its DALA students, informing them that they would be pulled out of DALA if they did not comply.

## **Justine and Briant – Shift 1**

6. Justine and Briant are candidates of the DALA programme. On 10<sup>th</sup> April, they received an email from the MALA Centre central manpower unit, informing them that they were both required to assist with the operations. They were assigned as the only people on the same late-night shift. As temporary assistants, they were tasked to maintain the software of their robots and programme them as necessary.
7. They were also given an Admin Room for them to rest in. The Admin Room is located in a restricted section of the lab and only personnel with access cards may access these sections. The use of the Admin Room is governed by Admin Room Rules and Regulations (ARRR). Amongst other rules, the ARRR states that the lights in the Admin Room are to be always switched on and the door is not to be left closed. The ARRR was communicated in the MALA Centre's email on 10<sup>th</sup> April.
8. On 12<sup>th</sup> April, Justine and Briant were sent on their first shift. According to Justine, she noted that Briant kept eyeing her suggestively throughout the shift. She also noted that Briant had tried to touch her inappropriately at times. Further, when she went to the toilet, Justine noted that Briant had trailed behind her suspiciously and loitered around its entrance.
9. Right after their first shift on the same day, Justine emailed the central manpower unit of MALA Centre. In her email, she noted that she felt uncomfortable being on the same shift as Briant, and that she was afraid of being sexually harassed by him. Her fears were heightened as a victim of previous sexual harassment. Justine also notes that the MALA Centre had the power to change either their shift and that they should exercise this power such that Justine and Briant would not work in the same shift together.
10. The central manpower unit of MALA Centre replied in an email on 13<sup>th</sup> April. The email from MALA Centre to Justine reads:

*Dear Justine,*

*Thank you for reaching out to us about your experiences working with Briant on 12<sup>th</sup> April.*

*The team at the central manpower unit have been made aware of Briant's behaviour and we do not condone such actions that have caused you discomfort.*

*However, we are unable to make such changes to the shifts at such short notice due to the shortage of skilled manpower and need for round-the-clock assistance during a period of critical emergency. We seek your understanding in this matter.*

*We urge you to always keep your guard up and alert us if there are any signs of trouble during your subsequent shifts with Briant.*

*Please be reminded that you should continue turning up for your shifts given the severe shortage in manpower. Failure to turn up for your shifts would result in the termination of your placement on the DALA scheme.*

*Thank you.*

*Best Regards,  
Central Manpower Unit  
MALA Centre*

### **Justine and Briant – Shift 2**

11. Justine and Briant turn up for their second shift on 16<sup>th</sup> April. During a lull period, Briant approached Justine in the Admin Room and asked her out on a date once the search and rescue operations have concluded.
12. Feeling uncomfortable, Justine declined Briant's advances and started to walk out of the room. Briant, enraged by Justine's rejection, slammed the door of the Admin Room shut and switched off the lights, trapping Justine in. Briant told Justine that "saying no was not an option", pinned her against a wall and began to kiss her.
13. Justine managed to let out a scream, which was heard by a passing lab administrator. The lab administrator entered the room, forced Briant off Justine, and called the police. The police arrived and immediately investigated the matter. They took Briant into custody and convicted him with the relevant criminal charges.

### **Justine's Civil Claim in Tort**

14. Following the incident, Justine suffered from a nervous breakdown and clinical depression. As a result, she was unable to continue her research and had to drop out of the BELREX University. Justine is currently unemployed and is unable to hold a stable job due to her mental condition.
15. Justine sued MALA Centre for negligence and vicarious liability. In the first-instance proceedings, the High Court accepted Justine's claim against MALA Centre that:
  - a. MALA Centre owed Justine a duty of care and breached it in its failure to intervene after her first shift with Briant, causing her to suffer loss and damage; and
  - b. MALA Centre can be held vicariously liable for Briant's actions because:
    - i. Briant's relationship with MALA Centre is akin to that of employment; and
    - ii. There was a close connection between Briant's actions and his employment such that it is fair and just to hold MALA Centre vicariously liable for Briant's actions.

### **Issues in the Appeal**

16. The Court of Appeal allowed the MALA Centre's appeal on the following issues:

- a. First, that the trial judge erred in finding a duty of care between the MALA Centre and Justine and that it is not fair, just and reasonable to find a duty of care in this novel situation; and
  - b. Second, that the trial judge erred in finding the MALA Centre to be vicariously liable for Briant's actions. Briant's relationship with the MALA Centre is not akin to that of employment and even if the relationship was akin to employment, that there is no connection between Briant's actions and his employment.
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### **Relevant Case Law**

Issue 1: Does the MALA Centre owe Justine a duty of care?

- *Caparo v. Dickman* [1990] 2 AC 605
- *Robinson v Chief Constable of West Yorkshire Police* [2018] UKSC 4
- *Latimer v AEC Ltd* [1953] AC 643
- *Home Office v Dorset Yacht Co Ltd* [1970] AC 1004
- *Smith v Littlewoods Organisation* [1987]

Issue 2: Can the MALA Centre be vicariously liable for Briant's actions?

- *Various Claimants v Catholic Child Welfare Society* [2012] UKSC 56
- *Cox v Ministry of Justice* [2016] UKSC 10
- *Mohamud v Morrison Supermarkets* [2016] UKSC 11
- *Woodland v Essex County Council* [2013] UKSC 66, [2014] AC 537
- *Barclays Bank PLC v Various Claimants* [2020] UKSC 13