

# Anand Beharrylal

## 1997 (Lincoln's Inn)



### QUALIFICATIONS:

LLB Hons, LL.M (Lond), Attorney-at-Law (Trinidad and Tobago)

### APPOINTMENTS:

Pupil Supervisor (Lincoln's Inn)  
Pupil Advocacy Tutor (Lincoln's Inn)  
Member of the Inns' Conduct Committee (Lincoln's Inn)

### PROFESSIONAL ASSOCIATIONS:

Criminal Bar Association (England and Wales)  
Law Association of Trinidad and Tobago  
Commonwealth Lawyers Association

### AREAS OF SPECIALISATION:

Anand initially trained in Chancery chambers and still maintains a general civil practice. He has recently joined the ranks of counsel who undertake direct Public Access work, which includes general civil litigation.

Anand both prosecutes and defends in criminal cases. His prosecution work includes acting for the CPS and Local Authorities with an emphasis on Fraud. He is instructed in a wide range of serious/complex criminal and civil cases at the trial and appellate level. His criminal cases include Homicide, Sexual offences, Serious violence, Procuring an abortion, Firearms, Drug Importation and Supply, Fraud, Corruption and Money Laundering. Related civil work includes Restraint and Confiscation proceedings, Prison law and Judicial Review/Public law, usually involving Human Rights issues.

Anand also provides advice and representation for solicitors who have been made subject to wasted costs orders on appeal, as well as general advice on alleged negligence/misconduct by solicitors in the context of criminal cases.

Anand's practice has a Caribbean dimension. He undertakes work in Trinidad and Tobago which includes general Chancery, Public law and Criminal law. Anand is also instructed in advisory and appellate work before the Judicial Committee of the Privy Council on appeals from Trinidad and Tobago and other territories, both with and without leading counsel. Anand often acts pro bono in matters before the Privy Council.

### CRIMINAL CASES (SAMPLES OF THE TYPE OF WORK UNDERTAKEN):

***R v Chellepermal and another [2009]*** Human Trafficking for Exploitation and Employing Illegal Immigrants - Complex facts - Expert Evidence - Exploitation by deception - Whether constructive knowledge sufficient for offence of employing illegal immigrants - No use of force or threat as a mitigating feature - Provision of accommodation as a mitigating feature - Shortness of employment as a mitigating feature - Asylum and Immigration (Treatment of Claimants) Act 2004 ss 4 and Immigration, Asylum and Nationality Act 2006 ss 21

***VOSA v Wills and Banham [2009]*** Fraudulent Representation - Prosecution policy and practice re MOT testers - Application of Evidential Stage test - Findings by prosecution that actions of defendants were gross negligence - Failure to disclose findings of gross negligence - Application of Ex Post Facto principle - Abuse of Process - Fraud Act 2006 ss 2, Criminal Procedure and Investigations Act 1996 ss 3, 5 and 7, Disclosure Protocol 2006

***R v Tiplady and others [2008]*** Dangerous Driving (condition of car post-collision) - Perverting the Course of Justice - Cause of injuries and death of pedestrian - Complex forensic evidence as to secondary impact with body and the cause of major injuries - Concealment of evidence - Whether departure from scene, cleaning and repairing of car post-collision sufficient to pervert the course of justice where collision not disputed - Road Traffic Act 1988 ss 2

***State v Galbaransingh and others [2007-2009]*** Receiving A Corrupt Payment and Aiding and Abetting in Receiving a Corrupt Payment - Knowledge of essential matters - Actual role in participation - Involvement of State or public body - Decision making matrix for determining tender for construction of Piarco International Airport by private company - Sufficiency of evidence and proper inferences - Trinidad and Tobago Prevention of Corruption Act 1987 ss 3

***R v Drew and others [2007]*** Conspiracy to Control Prostitution for Gain and Conspiracy to Facilitate the Acquisition of Criminal Property - Complex multi-handed case in which it was alleged the defendants working at an escort agency were controlling prostitution - Main feature of the case was that none of the prostitutes were coerced or compelled to work and did so of their own free will and could have discontinued at any time - Sexual Offences Act 1956 ss 30 and 31, Sexual Offences Act 2003 ss 53(1)

***R v Dandash and others [2007]*** Conspiracy to Defraud (*in excess of 27,000 pages of evidence*) - Complex multi-handed case in which bank employees with outside assistance defrauded clearing banks of £3 million+ - Method of fraud included compromise of internal bank security procedures, multiple identities, addresses and bank accounts with corresponding documentation - Preparation work included advising on evidence, preparation, strategy and legal submissions - Drafting included schedules of relevant evidence, skeleton arguments and conference agendas

***R v Cooke [2006]*** Rape of a Child under 13 - Familial allegation - Special measures/Pre-recorded and video link evidence - Complex expert evidence on sexual/hymenal injuries for prosecution and defence - Expert evidence on erectile dysfunction - Causation - Character evidence - Criminal Justice Act 2003 ss.114 and 120 - Sexual Offences Act 2003 s.5(1)

***R v Aluko [2006]*** Conspiracy to Defraud - Value of fraud identified £100,000+ from overall fraud of £4 million+ - Sophisticated multi-employee operation for gathering secure information from high street banks - Compromise of internal computer security procedures - Work policy, implementation and practice - Breach of trust

***R v Riley and others [2005]*** Conspiracy to Import Class A drugs - Value of drugs recovered £2.4 million - Main defendant serving Customs officer - Complex international drugs operation - Complex local/international telephone evidence - Complex covert surveillance

***R v Omeyele and others [2005]*** Conspiracy to Supply Class A drugs - Sophisticated street dealing operation in Cambridge - Cut throat defences - Low IQ of defendant - Desirability of accused giving evidence - Criminal Justice and Public Order Act 1994 s.35(1)(b)

***R v Uddin and others [2004 and 2005]*** Conspiracy to cause GBH - Violent Disorder - Petrol bombs - Rival gangs of secondary school teenagers - Suspected target rival secondary school  
***R v Greenidge and another [2004]*** Rape - Joint enterprise - Video evidence - Fitness to plead and stand trial - Belief in consent - Youth Justice and Criminal Evidence Act 1999 s.41

***R v Scott and another [2004]*** Murder - Res gestae - Dying declaration - Joint enterprise - Complex telephone/cell site evidence - Class A drug dealer related killing - Cut throat defences

***R v Konakli and others [2004]*** Harbours Class A drugs - Value £12 million - Substantially different roles between co-defendants re: importation and potential distribution

#### **REPORTED/CITED CASES:**

***Regina v. Brock [2010] EWCA Crim 1041***

ENGLAND AND WALES - Attempted Robbery - Commission of offence at the behest of others of younger age - Low IQ - Evidence of mental age of 11 years 4 months not available at sentencing - Sentencing Guidelines for Robbery - Criminal Appeal Act 1968, ss 9(1)

***Panday v. Espinet [2009] CV2007-04133***

TRINIDAD AND TOBAGO - Application to recuse for apparent bias - Judicial officer (Magistrate) hearing evidence and giving adverse ruling in committal proceedings - Evidence the same as evidence to be heard in pending summary trial - Whether Magistrate wrong not to recuse - Whether circumstances give rise to apparent bias and breach of constitutional rights - Judicial review - Constitution ss 4(a) and 5(2)(f)(ii)

***Rambharose v. Bovell [2009] UKPC 7***

TRINIDAD AND TOBAGO - Negligence and Estoppel by Representation of Fact - Whether vicarious liability could be a defence to an action for negligence against employee where he was found liable based on his admitted responsibility at the material time - Relevance and weight to be attached to letters written many months after critical representation made

***Panday v. Virgil [2008] UKPC 24; Times Law Reports 11<sup>th</sup> April 2008; [2008] WLR (D) 102; [2008] 3 W.L.R. 296, PC; Archbold 2009 Page 1136 at 7-112***

TRINIDAD AND TOBAGO - Whether finding of apparent bias in first trial is a bar to re-trial - Limitation period for repealed summary offence - Abuse of process re conduct of the executive - Abuse of process re age, state of health and inability to recover defence costs - Discretion to order costs in the appeal - Integrity in Public Life Act 1987 ss 27(1)(b), Summary Courts Act 1918 ss 33(2), Interpretation Act 1962 ss 29(2)(c), Integrity in Public Life Act 2000

***Lawrence v. Poorah [2008] UKPC 21***

TRINIDAD AND TOBAGO - Equitable doctrines of undue influence and unconscionable bargain - Sole issue before High Court whether donor of sound mind, memory and understanding - Whether Court of Appeal entitled to reverse decision of High Court on grounds not pleaded and for which permission to raise new grounds neither sought nor granted - Whether doctrine of unconscionable bargain applicable to gifts

***Regina v. Deyemi and Edwards [2007] EWCA Crim 2060; [2008] 1 Cr.App.R 25; (2008) 172 J.P. 137; [2008] Crim LR 327; Archbold 2009 Page 2257 at 24-24***

ENGLAND AND WALES - Possession of a Prohibited Weapon - Definition of possession - Concept of strict liability - Change in legal climate regarding offence of strict liability following the decisions of *B v DPP [2000] 2 AC 428*, *R v K [2001] 3 All ER 897* and *R v G [2004] 1 AC 1034* - Whether concept of strict liability affected by Articles 6 and 7 of the European Convention on Human Rights - Firearms Act 1968 ss 1 and 5(1)(b), Human Rights Act 1998

***Regina v. Drew and others (December 2006 unreported first instance decision); Blackstone's 2008 at B3.208; Blackstones 2009 at B3.216***

ENGLAND AND WALES - Conspiracy to Control Prostitution for Gain - Definition of "control" - Whether includes element of compulsion and/or power to exert influence over another person's behaviour - Applicability of Attorney-General's Reference (No 2 of 1995) per Rose LJ

on “control” for previous law - Sexual Offences Act 1956 ss 30 and 31, Sexual Offences Act 2003 ss 53(1)

***Panday v. Virgil* [2007] MAG. APP. NO. 75 OF 2006**

TRINIDAD AND TOBAGO - Knowingly making a False Declaration - Appearance of bias on the part of a judicial officer (Magistrate) - International judicial standards - Laws of Trinidad and Tobago, Integrity in Public Life Act 1987 ss 27(1)(b), Constitution ss 4(a) and 5(2)(f)(ii)

***Regina v. Willis* [2007] EWCA Crim 79**

ENGLAND AND WALES - Conspiracy to Steal and Assault With Intent To Rob - Application of Sentencing Council Guidelines for Robbery - Young Offender - Departing from Guidelines - Lawfulness of concurrent sentences - Criminal Appeal Act 1968, ss 9(1) and Powers of Criminal Courts (Sentencing) Act 2000, ss 91(1)

***Regina v. Crandle and Cullen* [2006] EWCA Crim 2663**

ENGLAND AND WALES - GBH With Intent - Bad character notice - Lateness of service - Procedure for application - Application of Criminal Procedure Rules - Procedure for dealing with written jury question - Prosecution counsel going beyond scope of jury question in cross-examination - Sentencing range for GBH With Intent where no disabling or permanent injuries - Criminal Justice Act 2003, ss 101 to 103 - Criminal Procedure Rules 2005 - Criminal Appeal Act 1968, ss 2(1) and 9 as amended

***Regina v. Green* [2005] EWCA Crim 2513; (2005) 149 S.J.L.B. 1350, CA; Archbold 2009 at 4-356, 4-368 and 7-70**

ENGLAND AND WALES - Murder and Manslaughter - Joint enterprise and intent - Role of principal and secondary - Manner in which indictment framed and case advanced to jury - Final evidential landscape - Inconsistent verdicts - Value of written aide-memoire in complex cases - Form of summing up in complex cases - Criminal Appeal Act 1968, ss 2(1)(a) and 3 as amended

***Campbell v. Hamlet (as executrix)* [2005] UKPC 19; (2005) 66 WIR 346; [2005] 3 All ER 1116**

TRINIDAD AND TOBAGO - Attorney at law - Disciplinary Proceedings - Allegation tantamount to criminal offence - Distinction between civil and criminal standard - Standard of proof to be applied - Delay of 8 years - Legal Profession Act 1986, ss 36 to 40, Third and Fifth Sch as amended

***Ramsarran v. Attorney General of Trinidad and Tobago* [2005] UKPC 8; (2005) 66 WIR 280**

TRINIDAD AND TOBAGO—Constitution—Human rights and fundamental freedoms—Arrest and detention of person on warrant of commitment for non-payment of fine—Police refusal to allow detainee to communicate with lawyer—Whether contravention of constitutional rights—Constitution of the Republic of Trinidad and Tobago Act 1976, Sch, ss 5(2)(c)(ii)(h)

***Attorney General of Trinidad and Tobago v. Ramanoop* [2005] UKPC 15; (2005) 66 WIR 334**

TRINIDAD AND TOBAGO—Constitution—Human rights and fundamental freedoms—Unlawful arrest and detention of appellant—Appellant assaulted by police constable during arrest and detention—Whether entitled to additional award for gravity of constitutional infringement—Constitution of the Republic of Trinidad and Tobago Act, Sch, ss 4 (a), 14(1)

***Boodoosingh v. Ramnarace* [2005] UKPC 9; (2005) 66 WIR 287**

TRINIDAD AND TOBAGO - Assault and battery (Civil) - Fresh evidence - Perjury in judicial proceedings - Judgement tainted - Appeal to set aside whole judgement - Dismissal of

appeal - Whether if perjury established, setting aside whole judgement necessarily proper remedy

***Regina v. Morgan* [2004] EWCA Crim 2286**

ENGLAND AND WALES - Possession With Intent to Supply Class A - Joint purchase - Social supply - Range of sentence of imprisonment - Misuse of Drugs Act 1971, ss 5(3) and Criminal Appeal Act 1968, ss 9(1)

**PUBLICATIONS/ARTICLES:**

Counsel Magazine (July 2007) Pg 20 - A DIFFERENT KIND OF SLAVERY

**PERSONAL INTERESTS:**

Caribbean history, politics, culture and travel  
Food and Wine