



THE COURT OF APPEAL

Record Number: 149/2018

**Peart J.
Edwards J.
Kennedy J.**

BETWEEN:

THE PEOPLE AT THE SUIT OF THE DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

AND

ANTHONY CASSIDY

APPELLANT

JUDGMENT OF THE COURT (EX TEMPORE) DELIVERED ON THE 8TH DAY OF OCTOBER 2019 BY MR. JUSTICE PEART

1. The events that occurred in the early hours of the 25th June, 2017 and which lead to the conviction of the appellant in respect of an offence of rape and an offence of causing serious harm contrary to the provisions of s.4 of the Non Fatal Offences against the Person Act 1997 are so horrific both in terms of their nature and their effect upon the unfortunate victim that the Court deliberately refrains from describing them in detail now in court since (a) to do so is unnecessary for the purpose of the Court's judgment and (b) would in any event only add to the extreme distress already caused by these events to any person who is in court who is connected to the victim either as a family member or as a friend.
2. Suffice to say that in the Court's view an experienced trial judge as is Mr. Justice McCarthy was fully entitled to state as he did that this was in his experience the most serious type of event and that it falls into the most serious category of offences of this type.
3. In relation to whether it fell to be categorised as an exceptional case or as a wholly exceptional case the trial judge correctly in this Court's view stated that these offences were the most serious type of offences of the kind in question. He took the view that absent any mitigation this is a case which should attract a life sentence. This Court is in full agreement with that conclusion. In relation to mitigation the trial judge stated:

"In the light of the plea and the mitigation, however, I propose to impose a finite or fixed sentence and that will be a sentence of eighteen years."
4. As for the question of suspending some portion thereof the trial judge stated that given the length of the sentence it was not possible to speculate in terms of suspending a period in order to reflect any rehabilitation that might occur in order to facilitate the appellant's re-introduction to society in due course.
5. Despite the able submissions of Mr. O'Hanlon, and indeed the Court appreciates the frankness of same and the lack of any attempt on his part on behalf of the appellant to minimise the exceptional gravity of those offences and the permanent and life-changing

effect of the offences on the victim, this Court cannot identify any error in principle on the part of the trial judge in the manner in which he approached the question of what is a proportionate sentence for these offences committed by this particular offender.

6. He carefully took into account the aggravating factors and he took appropriate account of what mitigating factors exist such as they are, in particular the plea of guilty at a relatively early stage and some evidence of remorse on the part of the appellant. He considered correctly, in the Court's view, that a finite sentence of eighteen years from the headline sentence of imprisonment for life appropriately took account of any such mitigating factors and the Court agrees.
7. It goes without saying that the trial judge applies an element of discretion in arriving at a proportionate sentence or to put it another way enjoys a margin of appreciation provided the applicable sentencing principles are considered and applied correctly and provided the principle of proportionality is correctly observed taking into account all the facts and circumstances including mitigation this Court ought not to interfere.
8. The Court's view is that these offences stand at the very highest point on the spectrum of gravity of this particular type of offending and despite what has been urged on the appellant's behalf we find no error in principle.
9. In the Court's view appropriate consideration was given to the question of the mitigating factors in the case and the trial judge was entitled to form the view that a finite sentence of eighteen years took proper account of them.
10. In these circumstances the Court refuses the appeal.