THE COURT OF APPEAL

Record No: 65/2022

Birmingham P.
Edwards J.
McCarthy J.

Between/

THE PEOPLE (AT THE SUIT OF THE DIRECTOR OF PUBLIC PROSECUTIONS)

RESPONDENT

V

R.C.

APPELLANT

JUDGMENT of the Court delivered by Mr. Justice Edwards on the 16th of January 2023.

Introduction

1. On the 13th of December 2022 this Court heard an appeal against the appellant's conviction by a jury at the Central Criminal Court on the 29th of June 2021 of forty eight (48) counts of sexual assault contrary to s.2 of the Criminal Law (Rape) (Amendment) Act 1990 as amended; eleven (11) counts of rape, contrary to s.2 of the Criminal Law (Rape) 1981 as amended by s.21 of the Criminal Law (Rape) (Amendment) Act 1990, and as provided for in s.48 of the Offences Against the Person Act 1861; and thirteen (13) counts of rape contrary to s.4 of the Criminal Law (Rape) (Amendment) Act 1990.

2. Having heard the appeal, which involved what counsel for the appellant conceded were novel submissions and arguments, the members of the Court's bench conducted a délibère in private following which we returned to Court and announced in public that we would be dismissing the appeal against conviction and would furnish our reasons in a written judgment on the 16th of January 2023. In this judgment we now provide the reasons for our said decision.

Background to the Appeal

3. The complainant alleged that she was regularly sexually assaulted and raped by the appellant over a ten-year period ranging from when she was eight years of age, until her 18th birthday. The complainant was born on the 17th May 1983 and the counts on the indictment ranged from the 17th May 1991 to the 16th May 2001.

4. The complainant gave evidence during the trial over two days. Her evidence included testimony that the appellant was in a relationship with her mother from when she was a baby. She said that she lived initially in a mobile home near a named village within a

county in Leinster ["village A"] and then resided with her mother and grandmother in another named village in the same county ["village B"] until she was five years old, whereupon herself and her mother moved to a council house in yet another village in a neighbouring county ["village C"]. The complainant said that while they were living in village C, the appellant would visit every night from around 8 o'clock until midnight or 1am, but he never slept there.

5. The complainant said that she lived in village C until she was about 15 years old and in transition year in school (a convent school in a nearby substantial town), during which year she lived with her aunt and uncle ["S"] and ["T"], and their three children who were her first cousins, comprising two boys and a girl ["A"], in a house near to her grandmother's house in village B. Transition year started in September 1999 and the evidence was that she lived with her aunt and uncle in village B from September 1999 until the summer of 2000. During this time the complainant's mother moved to a house jointly acquired with the appellant in yet another village ["village "D"] in the same county as villages A and B.

6. The complainant testified that thereafter, while she was in fifth and sixth year in secondary school, she boarded at the school during the week, but at weekends and during school holidays lived with her mother and the appellant in the house jointly owned by them in village D.

7. The complainant her abuse by the appellant as having commenced when she was living in the house in village C. She described it as having started in the sitting room with the appellant touching her outside her clothes, involving her legs and the outside of her underwear. On subsequent occasions it then progressed to him putting his hands inside her underwear and the touching of her vagina. This happened frequently. It then further progressed to digital penetration of the complainant's vagina by the appellant. The complainant also described how the appellant would produce his penis and make her touch it.

8. The complainant said she was on her own with the appellant quite a lot, at least once or twice a week, while living in the house in village C, when her mother would be out and about for various reasons. The abuse happened on these occasions.

9. The complainant went on to describe other occasions when she would be abused while in the house in village C. There were two bedrooms in the house, a main bedroom that she shared with her mother and another bedroom no longer used as such but as a toy room. The complainant slept in the main bedroom. She said sometimes she would be asleep in bed, her mother having gone out, and she would awake to find the appellant touching her in the dark. On other occasions when her mother was out, and the complainant was still up, he would bring her into the spare bedroom or toy room for the purpose of abusing her there. She was again digitally penetrated on these occasions and she said *"he tried on numerous occasions to have sex with me, but it didn't actually work – get to that point. He did manage to put his penis inside me but not fully."* The complainant went on to

describe that also on these occasions the appellant made her perform oral sex on him. This also happened in the sitting room.

10. The complainant said that when she went to live in village D the appellant continued his abuse of her there. The abuse there comprised digital penetration of her vagina, groping of her breasts and progressed to regular full vaginal sexual intercourse and occasional anal intercourse with her. She said he had *"pushed himself on me"*, and this occurred from *"about 12 onwards"*. She said she was anally penetrated "quite a few times", but *"maybe less than 10 times"*.

11. The complainant described being in fear of the appellant during the period that she was abused. Her evidence was that the appellant used to go shooting and had a gun in the bedroom in village D. She would sometimes cry, and scream and plead with him to desist, and if she did so he would point to the gun case and say he had those there. As she put it*, "[i]n other words, like, you know, "I'll kill you if you don't do it, what I ask you to do."*

12. The complainant described one occasion when her mother, who had been out, returned unexpectedly while the appellant was trying to get her to perform oral sex on him. The complainant said, *"[s]he walked in to the sitting room and he just zipped up his trousers really quickly and she was kind of shouting. And he – I don't know—I presume she kind of must have had some notion what was going on, but he said there was nothing and walked out."*

13. The complainant described in more detail particular instances in which her mother would be absent from the house in village D. She said her mother babysat her uncle's children on one night, and she was also in hospital for a period when the complainant was 15 or 16. The appellant availed of the mother's absence on these occasions to abuse the complainant, and the abuse included vaginal and anal sexual intercourse. The appellant watched pornographic video material on some of these occasions in the complainant's presence and would touch himself in front of her. In the period when she was at boarding school and would be home for weekends, the appellant would drive her back to school on Monday mornings. She described how on these occasions she would be brought to a caravan on the way to school and he would abuse her and have sex with her there. This would be at about 7.30 in the morning.

14. The last episode of abuse was in her Leaving Cert year, but the complainant was uncertain what age she was when she completed her Leaving Certificate.

15. The complainant further testified in response to questions asked of her in cross-examination that she visited her maternal granny a lot and she was very close to her. The complainant believed she died in 2003. She said that her cousin, A, was the closest in age and there was only 10 months between them. She had shared a room with A when she lived with A's family during transition year. She said she didn't really see her anymore, but she agreed that they were friends when they were in school. She said she got on well with S and T.

16. The complainant also said that her cousin A would have been in village C from time to time. While she (the complainant) would have stayed in her aunt and uncle's house each night and at weekends in her transition year, she returned home during the summer holidays. The complainant said during her cross-examination that during some weekends she would have stayed with her grandmother and another uncle, ["M"], who also lived with her grandmother. She said uncle M had died a few years back, when he was in his 40's. She said that she would have slept with her grandmother in her bed as there were only two bedrooms in use in her grandmother's house.

17. The complainant's mother did not give evidence at the trial.

18. The husband of the complainant also gave evidence of receiving a complaint from the complainant that she had been sexually abused by the appellant, a number of years before he made his statement to the Gardaí. The trial judge properly directed the jury that this evidence, while potentially relevant to the complainant's *"consistency and credibility"*, did not constitute corroboration of the complaint.

19. The jury also heard evidence from the investigating garda, a Garda Doyle, concerning his examinations of the various alleged crime scenes or locations, including his photographing of same; concerning searches carried out by him; concerning his arrest, detention and interviewing of the appellant, and concerning the circumstances in which the complainant had come to make her complaints to An Garda Síochána. He was extensively cross-examined, much of which focussed on an alleged failure on his part to pursue certain lines of investigation and to interview certain potential witnesses.

20. Records from the secondary school attended by the complainant were read into evidence without objection (to establish her years of attendance) and also in relation to an inpatient stay by the complainant's mother in a hospital in 1999.

21. The appellant gave evidence in his defence, denying the charges, and confirming his denials made to Gardaí under cautioned interview. His son and daughter-in-law also gave evidence for the defence.

Evidence at trial concerning alleged inadequate investigation

22. Counsel for the appellant has placed significant reliance on the following transcript extract concerning his cross-examination of Garda Doyle:

> *"Q. And I think the jury, I'm not going to repeat myself, I think we can all agree, your job is to seek out and preserve evidence, we agreed all that the last day, so I think I don't need to reprise that element of cross-examination. But can I ask you this, we heard reference to the uncle of* [the complainant]*'s, is it* [S / T]*?*
>
> *A. That's correct.*
>
> *Q. And I think that her granny,* [the complainant]*'s granny, when did she -- she's deceased a long time --*

A. *I don't know.*

Q. -- [the complainant] *said about 17 hears or something?*

A. *I'm not sure of dates.*

Q. *Right. But she was alive at the time, I think she was alive until 2003, or something like that; is that right? It's about 2003?*

A. *Okay.*

Q. *I think it's mentioned in one of the statements, I'm not sure?*

A. *Okay.*

Q. *The year?*

A. *I -- I, sorry, I can't, off the top of my head I can't say.*

Q. *Yes. No, no, I don't expect you to keep all this in your head?*

A. *Yes.*

Q. *Uncle* [M]*, I never heard of Uncle* [M] *until yesterday, do you know who Uncle* [M] *is?*

A. *No, I don't.*

Q. *Did you know he existed?*

A. *I -- I don't.*

Q. *Do you know if he can drive or give lifts or anything like that?*

A. *I'm not aware of that.*

Q. *You didn't even know he existed until yesterday, did you not?*

A. *No, I didn't.*

Q. *Okay. And is there anybody else, are there any other aunts or uncles,* [T] *and* [S] *are the only ones you know?*

A. *That's correct, yes.*

Q. *So, I think we can agree that one of the issues in the case is perhaps the frequency with which -- well, we'll take for example, the hospital visit in 1999, I think there's a dispute about where* [the complainant] *was staying, whether it was in* [village D] *or somewhere else. Are you aware of that?*

A. *I understand that she was in* [village D].

Q. *Yes, well that's what* [the complainant] *is -- that's her recollection of this event --*

A. *That's -- yes.*

Q. *-- when she was 15, I think. And did you -- just as a garda trained investigator, did it occur to you, and correct me if I'm wrong, I'm not an investigator, that perhaps* [T] *and* [S] *might be able to assist in that; would you agree with me they may have had something to say on that?*

A. *Possibly, but on speaking to [the complainant], she didn't highlight -- highlight that fact to me.*

Q. *Are you blaming* [the complainant] *for your failure?*

A. *No, I'm just -- I'm -- no, I'm not, I'm certainly not. What I'm saying on how many --*

Q. *So, I am, by the way?*

A. *Okay.*

Q. *Look, you're a professional investigator, can I suggest to you that it's an investigative step that perhaps it would have been helpful to take to address those queries to* [T] *and* [S]*? Or, how about just take a statement from them?*

A. *Possibly, possibly, yes.*

Q. *During the time of the alleged offending she lived with these people for 365 days, and at issue is how often she went back and forth. Did it occur to you on that second basis, to take a statement from* [T] *and* [S]*?*

A. *No, it didn't occur to me.*

Q. *Does it occur to you now? Now that I'm talking about it, does it seem relevant? Would you agree with me that's potentially relevant?*

A. *It -- you can do, yes.*

Q. *What part?*

A. *Yes, I accept -- I accept your point, yes.*

Q. *Yes. So they might say, I mean, look, there can't be any speculation, just for the argument sake and I just -- the ladies and gentlemen of the jury will be directed there'll be no speculation, but we can't speculate. But, you know, they may, oh that night on a hospital visit [the complainant] was staying with us or staying with the granny or -- well, the granny is dead. Anyway, I think you get the point.*

Okay, so can we agree that the garda investigation would have been more complete, and perhaps it would have been better to take a statement from [S] *and* [T]*?*

A. *It -- possibly, yes. But it hadn't occurred at the time.*

Q. [S]*, I'd actually call them Mr and Mrs* [surname provided]*, I'm just, excuse me, I'm referring to them as* [S] *and* [T] --

A. *Yes. No, I -- I take your point.*

Q. *-- but just, you know, for ease of -- yes. What about* [the complainant]*'s cousin* [A]*, did you take a statement from her, I don't think you did?*

A. *No, I didn't, the reason being that* [the complainant] *said that she hadn't spoken to her in a number of years and that she hadn't been aware of any instances.*

Q. *I think, okay, that's your reason is it? Do you think that's a good reason? Are you going to stand over that in front of the jury and say, that's a good reason for not taking a statement from* [A]*?*

A. *Well, there's also another reason, in that perhaps* [the complainant] *didn't want any other family members knowing her --*

Q. *Perhaps, are you just now deciding this yourself, or is that what you're -- did you say I was going to take a statement but -- ?*

A. *No, no, it's not, but it's -- it's something that had crossed my mind.*

Q. *Okay. Did you feel you were prohibited from taking a statement from these people?*

A. *No, in relation to the cousin, I decided, no, that it would be of no evidential value and I felt that it might affect* [the complainant] *in some way herself personally.*

Q. *But I think we can agree that -- can we agree as a matter of garda investigative practice, it's not really up to the complainant to control the investigation; isn't that right?*

A. *Yes, I accept that.*

Q. *So a complainant, once they make a complaint, it becomes -- you act on behalf of the people of Ireland, it's not about -- you don't act on behalf of* [the complainant]*; isn't that right?*

A. *That's correct, yes.*

Q. *Yes. And your job is to find out evidence and follow the investigative leads wherever it goes and adduce all relevant evidence. Can I suggest to you that* [A]*,*

her cousin, of course is probably one of those most relevant witnesses you could have got a statement from; do you disagree with that?

A. I accept your point.

Q. Do you disagree with that?

A. To some extent, yes.

Q. Okay. Well, look, the jury will make their own mind up?

A. Yes."

23. Relying on the cross-examination just highlighted, counsel for the appellant made a *P.O'C* type application to the trial judge seeking to have the case withdrawn from the jury on the basis that such were the inadequacies in the garda investigation that his client was at a real risk of receiving an unfair trial. It was contended, *inter alia*, that his client was prejudiced as the evidence of the complainant's grandmother, and of her uncle M, was no longer available, which evidence, it was said, *"may have been of assistance to the defence"*. No specifics were given as to what evidence they were, or might be expected to be, in a position to give, and as to how it might have been of assistance.

24. The trial judge refused the *P. O'C* application, stating in doing so that while she would be giving both a corroboration warning and a delay warning, she was not disposed to withdraw the case from the jury, because:

"I'm not satisfied that there's any general or has been any general overarching unfairness in the trial, I don't think there's any unfairness in the trial process. It's been conducted, in my view -- both counsel have been very careful in the manner in which the matter has been presented to the jury.

So, I refuse the application based on a general unfairness, based on the principles of POC."

The Grounds of Appeal

25. The notice of appeal filed by the appellant lists the following grounds of appeal:

"The learned trial judge erred in law and in fact, or in a mixed question of law and fact, thereby rendering the above conviction is unsafe and unsound, in the following respects:

1. Erred in refusing to stop the trial on the grounds that there was a real risk of an unfair trial which could not be avoided by appropriate rulings and directions on the part of the trial judge, including on the basis articulated in P.O'C. v. DPP [2006] 3 IR 238 and in particular on the grounds that:-

(a) *the gardai failed to properly investigate the alleged offences and to seek out and preserve all relevant evidence. In particular, failing to interview important relevant witnesses as the fact, specifically family members of the complainant Mrs [S], Mr [T], and their daughter Ms [A]. Further, this was without justification or any adequate justification.*

(b) *Witnesses as to relevant fact were deceased, in particular the grandmother of the complainant and her uncle [M].*

(c) *The failure to stop the trial was against the background of a stale case and the case built on vague allegations, in particular the allegations relating to anal intercourse.*

2. *Erred in refusing to find that the gardai had failed in their duty to seek out and preserve evidence, particularly when there was no or no adequate justification offered for the omissions in the investigation, in particular where the case was both stale and vague.*

3. *Failed to distinguish or adequately distinguish in her directions to the jury, the effects of delay on a case on the one hand, from the effects and consequences of failure to investigate on the other. In particular, failed to direct the jury that shortcomings omissions in the investigations in the context of a stale any case, could give rise to a reasonable doubt.*

4. *Failed to adequately direct the jury as to how to fairly determine the issue of the application of the standard of proof in the context of allegations of offences characterised by vagueness".*

Submissions

26. Both sides filed written submissions in advance of the appeal, and sought to amplify these in oral argument before us. We will refer to the submissions made, to the extent considered necessary, in the next section of this judgement.

The Court's Analysis and Decision

27. Counsel for the appellant sought to present his client's case as being one based upon prejudice and unfairness arising from alleged shortcomings in the Garda investigation. He sought to some extent to rely on the jurisprudence relating to *"missing evidence"* type cases which have been the subject of much jurisprudence in recent years, particularly *Braddish v. The Director of Public Prosecutions* [2001] 3 I.R. 127, and *Dunne v. The Director of Public Prosecutions* [2002] 2 I.R. 305, while at the same time contending that he was actually advancing a novel argument albeit one premised on certain judicial statements in both *Braddish* and *Dunne*, respectively.

28. We were referred to the passage in Hardiman J.'s judgement in *Braddish*, at p.133 of the report, where he states:

> *"It is the duty of the gardaì, arising from their unique investigative role, to seek out and preserve all evidence having a bearing or potential bearing on the issue of guilt or innocence. This is so whether die prosecution proposes to rely on the evidence or*

not, and regardless of whether it assists the case the prosecution is advancing or not."

29. We should observe, however, that *Braddish* was concerned with the failure to seek out and preserve real evidence, namely a CCTV recording. Critical in that case, which concerned the robbery of a shop, was the fact that the investigating garda had viewed the shop's surveillance recording and was aware that a) the video showed the robbery in progress and b) the applicant was the person shown committing it. Notwithstanding that, the prosecution elected to base their case upon confessional material only. The observation relied upon by the applicant in the present case was made in the context of Hardiman J. seeking to emphasise that where it was intended to base a prosecution wholly on an alleged confession, it did not mean that other items of evidence could be destroyed or rendered unavailable.

30. In the present case, *Dunne* was also relied upon. This was a majority decision of a three-member panel of the Supreme Court in which, applying its earlier decision in *Braddish*, that court prohibited the applicant's trial because of a failure to seek out and preserve CCTV footage from the surveillance system at a filling station at which the applicant was said to have committed a robbery. Again, unlike in the present case, the evidence at issue in *Dunne* was missing or lost physical or real evidence.

31. Even if it was to be accepted that the obligation spoken of, i.e., to seek out evidence is not confined to physical or real evidence and extends to other types of evidence, including potential witness testimony, there must be limits to this. The submissions filed on behalf of the appellant effectively concede this by stating that it is recognised that the duty has to be interpreted in a fair and reasonable manner.

32. Counsel for the appellant was unable to point to any case-law suggesting that the principle discussed in *Braddish* and *Dunne* extended to an obligation on the part of an investigating garda to interview all possible witnesses as to collateral matters, and if so, where the line was to be drawn in that regard.

33. Counsel for the respondent has referred in his written submissions to what he characterises as *"a useful summary of the extent and limits of the Braddish line of jurisprudence in cases, such as this"*, where an application is brought for a direction on *P.O'C* grounds by reason of missing evidence. The reference is the following passages from the judgment of MacMenamin J. in *Director of Public Prosecutions v. J.D.* [2022] IESC 39, where he states:

> *"82. The case law in this area, as it evolved from Braddish onwards, shows such applications, now conducted by a trial judge, are also highly fact-sensitive exercises. Trials are not to be restrained on a remote, theoretical, or fanciful possibility (Savage v. DPP [2009] 1 I.R. 185). Other than the most straightforward type of case, the jurisprudence now establishes that it would require something "exceptional" for a judge to actually prohibit a trial. (Byrne v. DPP (Garda Enright) [2011] 1 I.R. 346, at 356.) The most significant determining factor will frequently*

be the proximity or centrality of the alleged lost evidence to the question of guilt or innocence of an accused (Wall v. DPP [2013] 4 I.R. 309).

83. But "lost evidence" cases are not only highly fact-sensitive. They also come with a "duty of engagement". An application to stop a trial on that ground requires an identification by the defendant of the evidence said to be lost or unavailable, and of its relevance to the central issues at the trial. Thus, it will not be open to the defence merely to assert that some tangential testimony or material is missing. Rather, it must be shown that, as a matter of likelihood, what was lost was material to the real issues in the case, such as the reliability of some aspect of the prosecution evidence. An accused person must, therefore, be able to show that the nature of the missing evidence is such that in its absence, due to the elapse of time or other reasons, a trial in due course of law cannot take place."

34. In the context of the appeal before us in the present case, counsel for appellant was confronted, both in the respondent's submissions, and by members of this court at the appeal hearing, with the proposition that his argument failed to engage with Supreme Court's more recent jurisprudence on *P O'C* type applications in a series of cases culminating in the Supreme Court's decision in *The People (Director of Public Prosecutions) v. CCe* [2019] IESC 94. It was put to him that while the test, *per* Hardiman J. in *S.B. v. Director of Public Prosecutions* [2006] IESC 67, was whether an applicant has *"lost the real possibility of an obviously useful line of defence"*, the decision in *CCe* makes clear that an applicant seeking to make that case has a duty of engagement with the evidence presented at trial. As O'Donnell J., as he then was, put it at paragraph 17 of his judgment in *CCe*:

> *"Few trials, however, are perfect reproductions of all the evidence that could possibly exist. The absence of a witness or a piece of evidence does not render such trials unfair. A trial judge has therefore a vantage point which allows him or her to consider whether what has occurred crosses the line between a just and an unjust process. In shorthand terms, this involves considering whether the evidence which is no longer available is "no more than a missed opportunity", as the trial judge and the Court of Appeal considered, or by contrast whether the applicant has "lost the real possibility of an obviously useful line of defence", as considered by the majority in this court, adopting in this regard the language of Hardiman J. in S.B. v. Director of Public Prosecutions [2006] IESC 67, (Unreported, Supreme Court, 21 December 2006) ("S.B."), at para. 56. These judicially adopted phrases seek to identify either side of the dividing line: it is inevitable that many cases will proceed to trial without all the evidence that was potentially available at the time of the alleged offence, but that in itself does not prevent a trial occurring. There is a point, however, at which the deficiencies are of such significance and reality in the context of the particular case that it can be said that it is no longer just to proceed."*

35. In our assessment there has been a complete failure by the appellant to meaningfully engage with what was the evidence at his trial. Indeed, the matters complained of by

counsel for the appellant in this case represent no more than a missed opportunity to explore if the potential witnesses in question who were not interviewed might have had something material to say. There was nothing put before us to suggest the position one way or the other in so far as the grandmother, and uncle M are concerned. It is entirely speculative as to whether they would have had anything of relevance to say, much less something to say that might have assisted the appellant. As far as the complainant's uncle T, aunt S, and cousin A are concerned, those potential witnesses, although admittedly not interviewed by Garda Doyle or anybody on behalf of the prosecution, are all still alive and were available to be interviewed by the defendant's solicitor in advance of the trial if it was thought they might have had anything relevant to say. There is no property in a witness. The existence of these potential witnesses was known about from the complainant's statement(s) in the Book of Evidence, and they could have been interviewed by the defence legal team if they had been minded to do so. Accordingly, it is untenable to suggest that the appellant was irredeemably prejudiced by the failure of any garda to take statements from those witnesses or any of them. It might, of course, have suited the defence better if the prosecution had interviewed them, but the fact that that did not occur only means that the defence were deprived of a convenience, and missed the opportunity of learning what (if anything) those persons might have had to say without having to go to the trouble of interviewing the witnesses themselves. That was a missed opportunity that falls far short of any suggestion that they lost the real possibility of an obviously useful line of defence.

36. Further, we would not criticise Garda Doyle for his failure to interview the witnesses in question. There was nothing to suggest that they were likely to be able to contribute anything of materiality to either prosecution or defence. Garda Doyle's information was that the abuse had never been discussed with any of them. Neither was it suggested that any of them had witnessed any abuse or assault. At most, they could only have testified as to collateral matters. We consider that any duty on the Gardaí to investigate that might exist does not extend to an obligation to interview every person that might possibly have something to say on a collateral issue. That would be an unreasonable expectation and a disproportionate requirement. In exchanges with counsel for the appellant during the appeal hearing, the court enquired rhetorically whether it could reasonably be expected that Garda Doyle should have to interview every relative of the complainant, every one of her neighbours, or every one of her class-mates in school, on the basis that they might have something to say about a collateral matter? Where was the line to be drawn? While it must be accepted that the grandmother, uncle T, aunt S, and cousin A, were specifically mentioned by the complainant in her statement(s) to Gardaí, and on that account were perhaps somewhat less remote candidates for being possibly interviewed than the examples cited, it remains the case that it has never suggested at any stage that they were in a position to offer potentially probative evidence on anything other than on collateral issues.

37. In conclusion, we consider that the appellant has failed to establish that he faced a real risk of an unfairness in his trial, such as would have required the trial judge to withdraw the case from the jury. We consider that while the case was an old one, the trial judge

gave an appropriate delay warning as well as an appropriate corroboration warning, and we are satisfied that his trial was satisfactory and that his conviction is safe. We also expressly reject the suggestion that the complainant's evidence was vague, certainly as to the specifics of the abuses that were perpetrated upon her. It was no vaguer than that typically encountered in similar cases, and to the extent that it lacked detail that was as to precise dates, the precise number of occasions on which she might have been abused in a particular way and matters of that sort. However, the complainant was entirely clear as to the numerous ways in which she was raped and otherwise molested and concerning the regularity, overall frequency and locations in which those abuses were perpetrated upon her. Finally, we do not consider that there was any obligation on the trial judge to give a special warning to the jury concerning the failure of Garda Doyle to interview witnesses as to collateral issues.

38. It is in those circumstances that the appeal has been dismissed.