

**BETWEEN:****MS G****Plaintiff****– AND –****MR H****Defendant****JUDGMENT of Mr Justice Max Barrett delivered on 11th July, 2017.**

1. The plaintiff contends that: (i) she was the victim of rape in July 1987; (ii) her life in the years since has been blighted by the alleged rape; and (iii) she has wrestled with consequential mental health difficulties.

2. In September 2015, the plaintiff commenced the within personal injury proceedings. In her replies to particulars, she states that the reason she commenced the proceedings at such a remove in time:

*"was because she was under a disability by reason of the fact that she was suffering from a post-traumatic stress disorder, anxiety and depression which was caused in whole or in part by the wrongful act of the Defendant and that this psychological injury was of such a significance that the Plaintiff's will and her ability to make a reasoned decision to bring this action was substantially impaired".*

3. The court respectfully notes that, apart from the plaintiff's averments concerning the claimed disability, there is no evidence before the court, none at all, to support the contention that she was at any time acting under such a disability.

4. The defendant denies every aspect of the plaintiff's claim which he avers *"has been issued for an improper purpose...with the intention of extorting money from [the defendant]...and is completely without merit."* In his affidavit evidence he makes averment as to an alleged meeting with the defendant in January 2012 in which she sought the payment of recompense for the alleged rape or else she would see to it that matters fell to be dealt with by the criminal process. The defendant also points to the fact that the alleged rape has been investigated by An Garda Síochána, that a file on the matter was sent by An Garda Síochána to the Director of Public Prosecutions and that, following a review of the file, no prosecution was directed.

5. The plaintiff's claim is greatly outside the two-year time limit on the bringing of personal injuries as prescribed by the Statute of Limitations (Amendment) Act 1991, as amended by the Civil Liability and Courts Act 2004. And that, in truth, is the end of matters so far as the continuation of the within proceedings is concerned. Mention was made at the hearing of the within application of s.48A of the Statute of Limitations Act 1957, as inserted by s.2 of the Statute of Limitations (Amendment) Act 2000, which provision was prompted by (though it is not confined in its terms to) the bleak wave of historical child sexual abuse allegations which started coming to prominence in the 1990s, thanks to the courage of long-suffering victims. But the plaintiff cannot avail of s.48A(1): she was 27 years of age at the time of the alleged assault and thus is outside the protective ambit of s.48A(1)(a); and she is not bringing an action against a person other than the person who allegedly committed the alleged assault, and thus falls outside the protective ambit of s.48A(1)(b) of the Act of 1957.

6. Mention was also made at hearing by counsel for the defendant of the fact that: (i) the plaintiff claims that an authorisation issued from the Personal Injuries Assessment Board on 21st January, 2015; however, the within proceedings were not commenced until September 2015 and so outside the six-month time limit prescribed by s.50 of the Personal Injury Assessment Board Act 2003, as amended, for the commencement of proceedings following the issuance of an authorisation of the type aforesaid; and (ii) per the defendant, no letter of claim issued to the defendant pursuant to s.8 of the Civil Liability and Courts Act 2004, with the result that the defendant was not given a timely opportunity to seek to rebut the allegations made against him. The court respectfully does not consider it necessary to consider either (i) or (ii); the two-year time bar on the commencement of the within proceedings applicable under the Act of 1991 suffices to bring an end to these proceedings.

7. By notice of motion of 17th August, 2016, the defendant now seeks the following, and certain ancillary, reliefs:

*"1. An order pursuant to Order 19 rule 28 and/or in the alternative, pursuant to this Honourable Court's inherent jurisdiction, to strike out the above proceedings, for being frivolous and vexatious as the claim being brought has been brought for an improper purpose including the harassment of the Defendant as well as being brought for purposes other than the assertion of legitimate rights; and*

*2. Further or in the alternative an Order dismissing the Plaintiff's claim for being statute barred".*

8. Because the relief sought at item 2 of the above-quoted text is so clearly available to the defendant, the court does not consider it necessary to consider the relief referred to at item 1.

9. The court must, as a matter of law, dismiss the plaintiff's claim for being statute-barred.