



THE COURT OF APPEAL

**The President
Birmingham J.
Sheehan J.**

7/13

The People at the Suit of the Director of Public Prosecutions

Respondent

V

Barry Ring

Appellant

Judgment of the Court (ex tempore) delivered on the 4th day of March 2015 by Mr. Justice Birmingham

1. This appeal raises questions about how s. 1 of the Criminal Justice (Evidence) Act 1924 is to operate and it brings into focus the celebrated *DPP v McGrail* [1990] case. It does so in circumstances where Mr. Ring was convicted on the 11th December, 2012, on one count of a s. 3 assault. The allegation against him was that he had assaulted a member of An Garda Síochána, Garda Cullinane at Patrick Street, Tullamore.

2. After an incident on the street, the appellant was arrested and brought to the local garda station and in the course of a number of interviews, three in particular, he made allegations against the gardaí. The allegations included punching, kicking, standing on him and seeking to strangle him. The allegations really related not just what happened on the street but also as he contended, to what happened to him in the garda station. The contents of the interviews were introduced by the prosecution as part of the prosecution case, though in a redacted form and then the accused following the conclusion of the prosecution case, went into evidence and broadly speaking, he gave evidence along the same lines as what he had had to say in the garda station.

3. At that stage the prosecution sought leave to cross examine him in relation to previous convictions. He contended that he had dropped his shield in terms of the 1924 Act. Really, it is accepted by the parties to day that the key issue between them is whether what happened in Patrick Street, Tullamore, is separate and distinct from the allegations made in relation to the garda station or whether what happened on the street and what is alleged to have happened in the garda station are to be seen as one transaction.

4. It is the court's view that in the particular circumstances of this case that the two matters were very closely linked. They were geographically close, they were close in time and the contention on behalf of the appellant that the two events really formed part of a single transaction is well founded. It was his case that he had not been the aggressor in this incident, but rather the aggression had been coming from the garda side and that was a defence he was entitled to put, whether it would ever have found favour with the jury is neither here nor there.

5. It is the court's view that the events were so closely linked that it cannot be said that he had thrown away his shield and in those circumstances, the court takes the view that the trial judge was wrong to permit the cross examination and accordingly the court will quash the conviction.