



**THE COURT OF APPEAL**

**Birmingham J.  
Mahon J.  
Hedigan J.**

**The People (at the suit of the Director of Public Prosecutions)**

**V**

**Robert Keogh**

**107/16**

**Respondent**

**Appellant**

**JUDGMENT of the Court (ex tempore) delivered on the 27th day of June 2017**

**by Mr. Justice Birmingham**

1. This is an appeal against severity of sentence. Following a contested trial, the appellant, on the 11th April 2016, was sentenced to a term of imprisonment for thirteen years having been convicted of two counts of rape and two counts of s. 4 anal rape and one count of assault causing harm.
2. The background to this matter is set out in the course of this Court's judgment which dismissed an appeal against conviction and that exercise will not be repeated now. Suffice to say at this stage that the trial involved events that had occurred on the 19th July, 2012.
3. The prosecution case was that the appellant had invited the complainant, then aged 19 years, back to his house on the pretence of doing some painting in exchange for some money whereupon he then dragged her upstairs, raped her vaginally and then anally in a bedroom, dragged her across to a bathroom where he showered her, then returned her to the same bedroom where he then raped her again both vaginally and anally before returning her to the shower. At trial, the defence case was that there was no sexual activity with the complainant but that indeed the complainant had made inappropriate advances towards the appellant which were rebuffed and indeed an amount of force had been used in rebuffing her advances.
4. In the course of the appeal against severity of sentence the appellant has referred to the analysis of recent rape sentencing that was carried out by the Judicial Researchers Office in November, 2012. By reference to that report, it is said that the trial judge here either treated the offending behaviour as being at the lower end of the range warranting the most severe punishments or alternatively at the very upper end of the range warranting punishment beyond the medium. Counsel says that this resulted in a sentence which was unjust and disproportionate having regard to all the circumstances of the case.
5. So far as the background and personal circumstances of the appellant are concerned, he is 39 years of age and he has a total of 77 previous convictions recorded, eight of these being for assault or affray in Britain. He has served significant prison sentences in Britain. The Court was told that he had a difficult childhood.
6. The judge, in the course of her sentencing remarks, stated that she was taking into account the prolonged nature of the attack, the violence of the attack, the humiliating nature of the attack, the threats made to the victim, the efforts to perpetuate the ruse of a fight and then the effect that the incident had had on the victim. She commented that in her view eight of the 77 previous convictions, those in respect of assault and affray, were relevant. The judge identified the mitigating factors as being his difficult early years. There had been evidence in that regard from the accused's mother during the course of the trial, which was incorporated into the sentencing phase, and the fact that there were no previous convictions of a sexual nature. The judge assessed the four rape type offences as meriting 14 years imprisonment, and then reduced this to 13 years to take account of such mitigating factors as existed.
7. The sentence of 13 years was undoubtedly a significant one. However, the Court is quite satisfied that this was a case which had to be met with a significant and indeed severe sentence. In terms of a single incident rape this was very much in the upper range involving four rape type offences accompanied by circumstances of additional humiliation and degradation. The threats to kill the victim and her mother were credible and for a period proved effective. In the Court's view, the sentence, as it was decided upon by the trial judge was an appropriate one and one which fell within the available range. The Court therefore must dismiss the appeal.