



THE COURT OF APPEAL

Birmingham J.  
Sheehan J.  
Mahon J.

Appeal No.: 204/2015

The People at the suit of the Director of Public Prosecutions

Respondent

- and -

P. C.

Appellant

**Judgment of the Court delivered on the 11th day of November 2016 by Mr. Justice Mahon**

1. On 27th April 2015 at the Central Criminal Court the appellant pleaded guilty to sixteen counts from an indictment containing sixty seven counts, the details of which are as follows:-

(i) (Counts 1 and 2):

- Rape contrary to common law and as provided for by s. 48 of the Offences Against the Person Act 1861.

(ii) (Counts 3 to 25 inclusive):

- Indecent Assault contrary to common law and as provided for by s. 6 of the Criminal Law Act 1935.

(iii) (Counts 26 to 33 inclusive):

- Indecent Assault contrary to common law and as provided for by s. 10 of the Criminal Law (Rape) Act 1981.

(iv) (Count 34):

- Rape, contrary to s. 4 of the Criminal Law (Rape) (Amendment) Act 1990.

(v) (Counts 35 to 46 inclusive):

- Sexual Assault, contrary to Common Law and as provided for by s. 2 of the Criminal Law (Rape) (Amendment) Act 1990 as amended by s. 37 of the Sex Offenders Act 2001.

(vi) (Counts 47 to 67 inclusive):

- Defilement of a child contrary to s. 3(1)(b) of the Criminal Law (Sexual Offences) Act, 2006.

2. The appellant was sentenced on 6th July 2015 in respect of the said sixteen counts as follows, (with the remaining fifty one counts being taken into consideration):-

(i) Count 1: Seven years imprisonment

(ii) Counts 3, 6, 12, 18 and 24: Twelve months imprisonment

(iii) Count 33: Five years imprisonment

All of the above sentences were directed to be served concurrently from 27th April 2015.

(iv) Count 34: Seven years imprisonment, (with the final two years suspended for two years post release).

(v) Counts 35, 39 and 46: Five years imprisonment

(vi) Counts 47, 48 to 54, 60 and 67: Six years imprisonment (with the final twelve months suspended for two years post release).

This second group of sentences were directed to be served concurrently as between each of them, but consecutive to the seven year sentence imposed in respect of Count no. 1. The effective term of imprisonment was therefore twelve years.

3. The victims in this case were young children. The first victim was the appellant's sister, Ms. A. She was sexually abused by the appellant over a four year period between August 1977 and December 1981 when she was aged between five and nine years of age, and when the appellant was aged between fifteen years and nineteen years. The second victim was the appellant's teenage niece, Ms. B. Her sexual abuse occurred over a period of three years, between January 2005 and January 2008, and commenced when she was fourteen years old. The appellant was in his mid-forties during this period.

4. The sexual abuse perpetrated on the victims included indecent assault and rape (in the case of Ms. A) and indecent assault, sexual assault, defilement and rape (in the case of Ms. B). While it is unnecessary to refer in detail in the course of this judgment to the disturbing and graphic details of the sexual abuse perpetrated by the appellant on these two young children, it is appropriate to state that it included digital penetration, full sexual intercourse and oral rape.

5. The sexual abuse of the appellant's young sister occurred generally in her family home. The appellant left home as a young man and went to work in England where he had a solid employment record for a number of years. He married and had two children. That marriage broke up in the 1980's, and he married a second time and returned to Ireland in 1999. He became the father of a further two children after his return to Ireland. The sexual abuse of his young niece commenced when she started to babysit the two younger children for the appellant and his wife, and it took place in different locations, but mostly in the appellant's van at remote locations near the victim's home town. The appellant's niece later made a disclosure relating of the appellant's sexual abuse of her to her sister and her parents. At around this time the appellant's wife became aware of the relationship and their marriage broke up. A complaint was first made to the gardaí in 2010.

6. A number of grounds of appeal have been put forward by the appellant. They are:-

(i) The learned trial judge erred in principle with regard to his assessment of the gravity of the offences committed in respect of Ms. A.

(ii) The learned trial judge erred in principle with regard to his assessment of the gravity of the offences committed in respect of Ms. B.

(iii) The learned sentencing judge failed to afford any or any sufficient weight to certain mitigating factors favouring the appellant. These are said to include the appellant's good character, his low risk of re-offending, his good employment record, the fact that he has overcome a significant addiction to alcohol, and his apology and expression of remorse to his victims.

7. In the course of his sentencing judgment, the learned sentencing judge rightly categorised the offences as being very serious. He went on explain in considerable detail his reasoning for the sentences imposed in relation to the sixteen counts. He also explained why he believed it was appropriate to impose consecutive sentences. He stated:-

*"Now, if I do not impose consecutive sentences that means that he is being punished only for one of the two offences. So, on the authorities, it is perfectly clear that it is within my discretion to impose consecutive sentences because two separate victims were involved in widely disparate periods, certainly in the second period when he was a mature adult and when there could be no excuse in terms of sexual experimentation, for example, in his early teens."*

8. The commission of a series of sexual offences involving young children is all too common in recent decades. Comparing cases and the sentences imposed in the context of consistency is a difficult exercise as there is often a significant variation in the facts of the many cases that come before the courts. What is clear, however, is that in an effort to provide a degree of justice to the victims of serious sexual abuse who often suffer a lifetime of difficulty as a result of such abuse, and in order to deter such offending, the courts, in general, take a tough line in relation to sentencing for these types of offences. In its judgment in *DPP v. C.M.* [2016] IECA 80, this Court stated:-

*"Sentences of twelve years, or indeed longer sentences, in cases involving the serious sexual abuse of young children are not uncommon in this jurisdiction... The courts quite rightly deal severely with adults who sexually abuse defenseless children. In this case, the instances of sexual abuse were very serious, in that they occurred over a period of two to three years and involved a very substantial breach of trust."*

9. In this case the offences were particularly serious. The offending behaviour was perpetrated on young children over a total period of seven years. The first period of offending concerned a very young child, who was the appellant's sister and in respect of whom the appellant was in a position of trust. The second period of offending involved the appellant's niece. Ms. B. She was in her young teens, a very vulnerable stage in her life, and it is clear that the appellant, who was then a man in almost middle age, exploited her in a very callous and self-serving manner.

10. In these circumstances, the Court is satisfied that the sentences imposed by the learned sentencing judge after very careful consideration on his part were reasonable and appropriate for the offences in question. His decision to direct an element of consecutive sentencing with the result that the total effective prison sentence imposed on the appellant was twelve years was also justified, for the reasons identified by him. The sexual abuse was systematic and calculated and has greatly damaged the lives not only of the victims themselves, but also their wider families and which include the appellant himself. The extent of the lifelong damage wrecked on both victims' lives is all too evident from the evidence given by Ms. B and the impact victim statement furnished by Ms. A. Their bravery in coming forward is admirable, and it is to be hoped that their pain and distress has, to some degree, been eased by so doing.

11. The appeal is therefore dismissed.