ABE *v* Public Prosecutor
[2014] SGHC 18

Case Number	: Magistrate's Appeal No 177 of 2011
Decision Date	: 27 January 2014
Tribunal/Court	: High Court
Coram	: Lee Seiu Kin J
Counsel Name(s)	: Jeyabalen and Arthur Edwin Lim (Jeyabalen & Partners) for the appellant; Wong Kok Weng, Edmund Lam Hon Mern and Caleb Tan Tian-Le (Attorney-General's Chambers) for the respondent.
Parties	: ABE — Public Prosecutor

Criminal Law – Offences – Rape

Criminal Procedure and Sentencing – Appeal – Adducing fresh evidence

27 January 2014

Lee Seiu Kin J:

1 This was an appeal by the appellant against his conviction in the District Court of two charges, using criminal force with intent to outrage modesty under s 345A(2)(b) and rape under s 376(1) of the Penal Code (Cap 224, 2008 Rev Ed). Both offences were committed on 28 December 2006. At the time of the incidents, the complainant was 13 years old and the appellant, 21 years old. For the charge of outraging modesty, with the additional element of voluntarily causing wrongful restraint to a person under 14 years of age, he was sentenced to 4 years' imprisonment and 4 strokes of the cane. For the charge of rape, he was sentenced to 7 years' imprisonment and 4 strokes of the cane. The sentences were ordered to run consecutively, which meant that the total sentence was 11 years' imprisonment and 8 strokes of the cane.

2 The appellant appealed against conviction and sentence. In relation to the appeal against conviction he applied, in Criminal Motion 38 of 2012, to adduce fresh evidence. This pertained to medical evidence to show that the appellant suffered from "poor quality erections for penetrative sex". I allowed the application and heard the evidence myself rather than direct that it be taken by the trial judge. The evidence came from a number of medical practitioners by way of affidavit and they were cross-examined in court. Having heard the evidence and studied the record of proceedings at the trial below, I dismissed the appeal. In view of the severity of the sanction and the vigour with which the appellant pursued his appeal, I set out now the detailed grounds for my decision.

Background facts

3 The complainant is the youngest of three children. She has an older brother and an older sister. Her parents are divorced. But in the first half of 2005, at least, the entire family of five was still living together in a flat. This domestic arrangement changed at some point in July or August 2005, when the appellant, who was then the boyfriend of the complainant's sister, moved into the flat. The complainant's brother moved out within a few months. The appellant broke up with the complainant's sister sometime in 2006 but continued residing in the flat until 28 December 2006, the date of the incident.

4 The appellant's behaviour during the period of his residence with the complainant's family was the subject of conflicting testimony. On one side, the complainant, her sister and her mother all testified at the trial below that, towards the end of 2005 or in early 2006, the appellant began abusing them physically and verbally. By her own account, the complainant was abused by the appellant about once a week. This abuse consisted of being shouted at, hit or slapped, or being hit with a belt or clothes hanger. The complainant's mother testified that she was abused a few times a week; she was shouted at, punched or kicked, or hit with a belt, and once, was hit on the head with a cooking pot. The complainant's sister testified that she endured raps to the head with the appellant's knuckles, being hit by a wet towel, and once, being kicked in the stomach and punched in the face. Yet he was not evicted from the flat because he would express remorse and seek forgiveness after the incidents of abuse. This caused them – or at least the complainant's mother – to feel sorry enough for him that they did not make a police report or otherwise compel him to leave. The complainant further testified that the appellant started to take a romantic interest in her after he broke up with her sister. The complainant said that he touched her, tried to kiss her on the lips, tried to smell her body, and told her that it was God's will that she become his wife. According to the complainant's mother, the appellant would put his head on the complainant's lap and would also kiss the complainant. The complainant's sister told the Court that she heard him saying indecent and suggestive things to the complainant over the phone.

5 On the other side, the appellant categorically denied that any of these instances of abuse or inappropriate touching ever occurred. He added that the complainant's mother had on one occasion made an unwelcome sexual overture to him in rather forthright fashion; he was ready to quit the flat at this point but was persuaded to stay when told that his departure would be devastating for the complainant's sister, not least because she would discover her mother's indiscretion. The trial judge did not believe the appellant's version of events. He accepted instead the version put forward by the complainant and her family members.

Events of 28 December 2006

6 The complainant testified in the trial that, around 2.00pm on 28 December 2006, she was sitting in one of the flat's three bedrooms reading a book, when the appellant went in and put his head on her groin in spite of her attempts to push him away. He then sent her mother out of the house, returned and locked the bedroom door, and proceeded to pull the complainant's pants and panties off. He shoved a part of the bed sheet into her mouth, held her down, and pushed her shirt and bra up, whereupon he sucked, licked and kissed her nipples. That was as far as he went before he permitted her to put her clothes back on. He forced her to swear on the Bible that she would marry him. Once he left the bedroom, she locked herself in the adjacent bedroom and called her sister, who had been out of the house since the morning. Without revealing what had just transpired, she asked her sister to come back home quickly, only to be informed that her sister was unable to do so.

7 The complainant's mother arrived back at the flat later that afternoon. The complainant testified that she did not have an opportunity to tell her mother what had happened until the appellant left for work at around 6.00pm. About an hour later, the appellant called, asking to speak to the complainant. She told him that she did not like him and had no intention of fulfilling her promise to marry him, which made him angry. Shortly after this call, the complainant joined her mother as the latter went about her part-time job of conducting door-to-door surveys in the neighbourhood. She had done this for about an hour before the appellant called again, this time to say that he was on his way home from work in a taxi. He picked up the complainant and her mother along the way and the taxi conveyed the three of them to their block.

8 The complainant testified that the appellant locked her mother out of the flat. He then pushed the complainant into the same bedroom in which he touched her that afternoon and locked the door. He pointed a Swiss Army knife at her and demanded that she take off her clothes. When she did not comply he came over and removed her clothes himself and then removed his own clothes. He pushed her onto the bed and went on top of her. He touched her genitals and inserted a finger into her vagina. He proceeded to penetrate her vagina with his penis repeatedly. He was interrupted while doing so by knocking on the bedroom door. It was the complainant's sister; she had just got back and managed to gain entry to the flat because she had a set of keys to the front gate. The appellant shouted at the complainant's sister to go away, which she did. The appellant resumed penetrating the complainant's vagina with his penis. He eventually stopped and went out of the bedroom, to where the complainant's mother and sister waited. He told them that the complainant was now his wife. An argument ensued because the complainant's mother wanted to have the complainant undergo a medical examination but the appellant did not want that. The appellant finally agreed that they could go to the hospital, provided that he accompanied them there and that the complainant did not take a "virginity test". The four of them took a taxi to KK Women's & Children's Hospital. There the complainant and her mother managed to separate themselves from the appellant. They told the doctors that the appellant had raped the complainant. The police were called and the appellant was taken in for questioning. The complainant's version of the events of 28 December 2006 was broadly corroborated by the testimonies of her mother and sister.

9 The appellant's version of events at the trial was as follows. He returned to the flat on the morning of 28 December 2006 after having done an overnight shift as a part-time security guard on Pulau Ubin. He had a running nose and a headache, and so he took some medicine and went to bed immediately. He slept until 3.30pm or 4.00pm, and got up to get ready to leave for another overnight shift in Pulau Ubin. The complainant's mother prepared some food for him and he left the flat no later than 5.00pm. Already feeling ill when he left, he vomited while at work. When the complainant's mother called him shortly after this he apprised her of his intention to go home. He obtained his employer's permission to leave and made his way back to the flat. There was no one at home when he got there around 9.45pm. He called the complainant's mother for reasons he could not recall, then took some more medicine and slept. Sometime later, the complainant's mother woke him up. She told him that the complainant was not feeling well and requested him to follow the three of them to the hospital. He was tired and declined to do so, but when she persisted he agreed to go along. He stayed outside the Accident & Emergency registration room because it was cold inside, but when he later attempted to join the others in the room, he was prevented from doing so by the security guards. The trial judge accepted the version of events put forward by the complainant, and on that basis he convicted the appellant on the charges.

Fresh medical evidence

10 The fresh medical evidence which the appellant sought to adduce in support of his appeal was to show that he had difficulty achieving an erection. He conceded that he was not wholly incapable of penetrative sexual intercourse, but his case was that his erection was of such poor quality that he could not have used his penis to penetrate the vagina of the complainant in the circumstances described by her. On her evidence, throughout his penetration of her, he was holding her arms down as she struggled to break free from under him, and in addition he was grasping the Swiss Army knife in his hand. He would therefore not have been able to use his hands to guide his penis into her vagina. The appellant contended that, given further that the complainant's vagina would be more difficult to penetrate since she was a virgin, penetration without use of his hand would only be possible with an erection of good quality which he could not attain, or at least could not sustain for any substantial duration.

11 In order to make sense of the medical evidence, it is necessary first to understand the physiological process by which a penis becomes erect. The explanation I attempt here is a simplification of the evidence given by the medical experts in court in this appeal. Upon sexual stimulation, the arteries supplying blood to the penis dilate, increasing the blood flow to the organ. This causes the spongy tissue within the penis to fill up with blood. This engorgement stretches a semi-elastic membrane that surrounds the spongy tissue, which in turn leads to compression of the veins through which blood flows out of the penis. The compression of the veins reduces the flow of blood out of the penis, causing more blood to collect in the spongy tissue, leading to further engorgement. This results in an increase in the length and girth of the penis. When the stretching limit of the semi-elastic membrane is reached, the penis no longer increases in length and girth. Instead, the blood flowing into the penis goes towards increasing the rigidity or hardness of the penis.

12 The appellant submitted that the medical evidence, consisting of the results of and observations from three medical tests performed on him, showed that he suffered from what the experts termed a "venous leak". This was inadequate compression of the veins carrying blood away from the penis, leading to decreased retention of blood in the penis as compared to the situation where there was no venous leak. This would prevent the appellant from attaining or sustaining an erection rigid enough to enable him to penetrate a woman's vagina without the need to use his hand to aid insertion.

Approach taken in evaluating the evidence

13 The prosecution submitted that, by reason of section 105 of the Evidence Act (Cap 97, 1997 Rev Ed), the appellant bore the burden of proving "that he was unable to commit the *actus reus* of the offence at the material time" because it was he who instituted the appeal. I rejected this submission without hesitation. It is always the prosecution's burden to prove beyond a reasonable doubt that an accused person committed the offence with which he is charged. If there is a reasonable doubt, an acquittal must follow. This is so on appeal just as it is at trial. Even if the convicted person adduces fresh evidence on appeal, as in the present case, it remains the prosecution's burden to persuade the appellant court that, notwithstanding the fresh evidence, there exists no reasonable doubt as to the correctness of the conviction.

14 The fresh evidence in the present case was somewhat involved, in that it necessitated grappling with the mechanics of the medical tests conducted on the appellant and conflicting interpretations of the data and observations from those tests. As such it was not difficult to become so enmeshed in the intricacies of the science as to lose sight of the primary question in these legal proceedings, which was whether the appellant's conviction should be affirmed or set aside. Therefore I was mindful that, while I should be cognisant of the technical details and nuances of the fresh medical evidence, I could not consider that evidence in isolation but had to do so together with the evidence adduced at the trial below, in order to determine whether, on an evaluation of the totality of the evidence, there was a reasonable doubt as to the appellant's guilt.

Evaluation of the fresh medical evidence

15 As I have mentioned, the fresh medical evidence revolved around three medical tests conducted on the appellant. The first was a Doppler ultrasound test conducted on 10 December 2011. The second was also a Doppler ultrasound test, conducted on 10 September 2012. The third was a cavernosography conducted on 17 December 2012. These tests began with an injection of a drug called Caverject into the appellant's penis. Caverject causes dilation of the arteries supplying blood to the penis and thus induces an erection. In the Doppler ultrasound tests, measurements of the velocity of blood flow in the blood vessels in the penis are taken. The existence of a venous leak

could be inferred if the velocity of blood exceeds a certain threshold. In the cavernosography, a contrast fluid or dye is injected into the penis ten minutes after the Caverject injection, and X-ray scans of the penis taken to visually track the flow of the contrast fluid. The existence of a venous leak would be indicated by contrast fluid escaping the spongy tissue of the penis and entering the veins.

16 The first Doppler ultrasound test produced a reading suggesting that no venous leak existed, whereas the second produced a reading suggesting that there was a venous leak on the left side of his penis. The cavernosography confirmed that the appellant did indeed suffer from a venous leak, albeit a "mild" one, on the left side of his penis. This much was not controversial. However, the experts disagreed about the extent of such venous leak. This disagreement was possible despite the characterisation of the leak as "mild" in the cavernosography results because the amounts of Caverject administered in the three tests were not uniform. In the first Doppler ultrasound test and the cavernosography the dose was 20 micrograms, but in the second Doppler ultrasound test the dose was 10 micrograms. The appellant's main expert, Dr Peter Lim ("Dr Lim"), opined that a 20-microgram dose was unusually high and might "mask" the venous leak, *ie*, cause it to appear less severe than it was, and perhaps even to the extent of causing it not to show up at all. The prosecution's main expert, Dr Ng Kok Kit, maintained that a 20-microgram dose was within the normal range and that the appellant's venous leak was, at most, merely "mild".

17 For reasons which should become apparent later I did not think that I was able or needed to arrive at a firm conclusion as to how probable it was that the appellant suffered from venous leak at the time of the alleged offences, or to ascertain the extent of the venous leak which might have afflicted him then. But I was satisfied that, by 10 September 2012, the date of the second Doppler ultrasound test, the appellant was suffering from venous leak. More to the point, it meant that in a clinical environment he could not sustain an erection hard enough for penetrative sex for more than several minutes. Separately, it appeared to me pertinent that the tests showed that even when the appellant's penis was at its maximum erection, that is, at maximum girth and length and maximum hardness, it was pointing downwards, at an angle of 10 degrees below the horizontal. Dr Lim said that this would have made it even more difficult for the appellant to penetrate the complainant's vagina while she was lying on her back and he was on top of her, which I accepted.

18 However, in my judgment, the nature of the fresh medical evidence was such as to limit substantially its probative value in relation to the primary question of the appellant's guilt. First, the evidence was obtained in a sterile clinical laboratory environment. The prosecution's medical experts stated that the effect of the drug on the appellant's penis in a clinical setting may well differ greatly from the situation when he is sexually aroused. Secondly and more importantly, the medical evidence was based on tests conducted some five to six years after the incident. The quality of the appellant's erection when the medical tests were conducted on him may not necessarily reflect the quality of his erection at the time of the alleged offences. Dr Lim testified that the venous leak had to be congenital, either in the sense of its having existed since birth, or in the sense of the tendency to develop it having been there since birth, and this was not seriously challenged by the other experts. But even if it could be said unequivocally that the appellant had venous leak by the time of the alleged offences, it could not be known how serious the leak was at that time. Dr Lim said that based on how "hopeless" the appellant's erection was when he examined it following the medical test, the appellant's venous leak must already have been severe in 2006.

19 However, given that the first Doppler ultrasound test conducted on 10 December 2011 returned readings suggesting that the appellant did not suffer from venous leak, it appeared to me possible that venous leak was a relatively recent development in the appellant's health history, manifesting only after this first test was conducted on him. As I have said Dr Lim's response was that the 20-

microgram dose of Caverject administered during this test might have "masked" the venous leak, but the medical literature placed before me did not assert that a 20-microgram dose was outside the acceptable range for diagnostic purposes. I did not think it possible to tell whether a 10-microgram or 20-microgram dose more closely approximated the appellant's physiological functions in ordinary life. In any event, I also considered it possible that the appellant did have venous leak at the time of this first test, except that the Doppler ultrasound test failed to disclose it because that test, unlike the cavernosography, cannot furnish direct visual evidence of a leak. Given these uncertainties, I could not make any definitive findings on the question of how the quality of the appellant's erection might have changed over time.

20 It bears reiterating that the appellant's case was not that he was physically incapable of using his penis to penetrate the complainant's vagina. Rather, it was that he could not have penetrated her in the manner in which she described, *viz*, without using his hands to guide his penis into her vagina. Thus his case depended on the premise that the complainant's testimony was that he did not use his hands for assistance when penetrating her. However, a close scrutiny of the Notes of Evidence did not support this contention. The complainant did say in her testimony that the appellant held his Swiss Army knife in his hand for the entire duration of the alleged rape. She also said that she struggled throughout the alleged rape, and that he held her down by holding her arms. But the complainant had also stated that, prior to penetrating her, the appellant "touched [her] private area" and "inserted a finger inside slightly". This was explicit testimony from the complainant of a moment when the appellant's hand or hands were not holding her down. From this it was clear that the complainant's narrative contemplated that his hands were not restraining her all the time. The counter-argument which the appellant might have advanced was that the complainant could well have intended to draw a distinction between the circumstances during the alleged rape and the circumstances preceding it. For example, the complainant's testimony that the appellant held her arms while holding the Swiss Army knife appeared on its face to be limited to the duration of his alleged penetration of her with his penis, and not to extend to the events prior to it, *ie*, his using his mouth on her breasts and his digital penetration of her. But that was because the examination-in-chief and cross-examination which elicited this testimony was exclusively directed towards what happened during the alleged rape. At no time was the complainant asked whether the appellant was using both hands to restrain her throughout the incident. It would be reasonable to infer that the appellant had to subdue the complainant from the time he began to touch her against her will, and not merely while he was using his penis to penetrate her. On that supposition, if the appellant was able to use his hand to touch her private area and penetrate her with his finger, it would seem entirely possible that he was free to use at least one hand for assistance when penetrating her with his penis. In short, I considered that the complainant's testimony, addressed as it was to targeted, focussed questions in examination-in-chief and cross-examination, should not be construed narrowly as necessarily implying that the appellant did not use his hands while penetrating her vagina with his penis. On the contrary I thought that her evidence was entirely equivocal on that point.

21 In my judgment, therefore, the appellant's case in relation to the fresh medical evidence was built on a shaky premise. For that reason the degree to which the evidence would be probative of the appellant's guilt was limited. I thought that the evidence remained a relevant factor to be taken into account when assessing the case as a whole, since erectile difficulties on the appellant's part at the time of the alleged offence would have made it more difficult for him to penetrate the complainant with his penis in the context of a struggle. This would diminish, at least marginally, the credibility of the complainant's testimony. However, the fresh medical evidence was far from the decisive source of reasonable doubt that the appellant portrayed it to be.

Evaluation of all the evidence

22 And so I turned to the evidence that was adduced at the trial below. The testimony of the complainant was key, providing as it did the only direct evidence that the appellant committed the offences as charged, since the offences were alleged to have taken place in private behind a locked door. In cases of this nature the appellate court generally places substantial weight on the trial judge's assessment of the complainant's testimony, on the basis that the trial judge had the advantage of observing her demeanour as she gave evidence in court. This approach is wholly sensible, but of course it is accompanied by a consciousness that the appellate court cannot abdicate its duty to examine the evidence with care. In the present case this consciousness was especially at the forefront because I was privy to evidence that the trial judge had not heard, which evidence might have had an influence on his decision. Accordingly, notwithstanding the finding of the trial judge below that the complainant's evidence was "unusually convincing", I subjected her testimony to rigorous study.

23 My conclusion was that the complainant's account of events, albeit available to me only in cold print, appeared to come from someone who had lived through the events described. Her recollection was clear, and her answers to questions asked in clarification or amplification were consistent and had a flow to it that could not have been possible had it been entirely invented, as would be the case if the appellant's version were the truth. From the Notes of Evidence it was not possible to discern her hesitations, her tone of voice and her body language, all of which the trial judge would have had regard to; but I could see that long pauses of at least nine seconds and "sniffing" were recorded as she testified about the alleged rape and the immediate aftermath of it. These were consistent with an emotional state triggered by recollection of a traumatic event, although the possibility of nervousness on her part could also be a factor.

24 Next I considered whether and to what extent the other evidence corroborated the complainant's testimony. Her mother and sister testified that the appellant and the complainant were together in the locked bedroom on the night of 28 December 2006, and that when they emerged the complainant was distraught. This furnished significant support to the complainant's account, but because the appellant alleged that the complainant and her mother and sister were in a conspiracy to implicate him falsely, I left aside the testimonies of the mother and sister from my consideration for the time being, and had regard instead to the testimonies of independent parties against whom no plausible accusation of conspiracy could be levelled.

25 What cannot be doubted is that in the early morning of 28 December 2006 the appellant, the complainant, her mother and her sister went to KK Hospital, where they alleged that the appellant had raped the complainant. Two medical examinations were conducted on the complainant within a fairly short time, between six and 11 hours after the alleged rape. The doctor who conducted the later examination recorded a number of hymen tears as well as superficial abrasions on the muscle slightly below the hymen. The hymen tears appeared fresh based on the colour of the blood, which meant that the tears had probably been made within 24 hours of the examination; the doctor opined that the tears could not have been more than two days old. These injuries were consistent with a sexual assault involving penetration. A few months later the complainant underwent a psychiatric examination in which she narrated a version of the events of 28 December 2006 that was identical in material respects to that which she gave in court. She informed the psychiatrist that she had insomnia, nightmares and poor appetite, and was easily startled when touched.

26 The complainant's uncle, her mother's brother, testified that prior to the incident, the complainant had told him that she had been physically abused by the appellant. The pastor of the church attended by the complainant's family testified that the complainant earlier told him that the appellant had "touched" her, and that her mother had earlier confided that the appellant physically abused the female members of the family. The evidence of these two witnesses, while in my view

reliable, was not directly probative of the appellant's guilt, since even an established pattern of physical abuse and inappropriate touching would not necessarily mean that the appellant was likely to have committed the offences, and moreover, they were in no position to verify the truth of what they were told by the complainant and/or her mother. Nonetheless, I thought that this was relevant evidence. If what the complainant told her uncle and the church pastor were true, it would undermine the credibility of the appellant, who maintained that he did not at any point abuse the complainant or her family. If it were claimed that what she told them was false, it would mean that she had begun telling lies about the appellant in a sustained campaign that finally culminated in baseless accusations of sexual assault on 28 December 2006; this would be less probable than a claim that she lied only about the events of 28 December 2006, and in this way the testimonies of the uncle and the church pastor made it less likely that the complainant was untruthful.

27 In my opinion, the present case could ultimately be reduced to two stark possibilities. Either the appellant committed the offences, or the complainant framed him for something he did not do, with the complicity or acquiescence of her mother and sister. Having evaluated the evidence I formed the view that the latter possibility was highly improbable. I found that the testimonies of the complainant and her sister and mother were generally consistent with one another. Some inconsistencies might be identified, but they were all minor and appeared to be of little significance, as should be evident from the few examples I shall cite. First, the complainant testified that, after she, her mother and the appellant alighted from the taxi prior to the rape, her mother and the appellant argued all the way up to the house, whereas her mother testified that she stayed behind to pay the taxi fare. Second, the complainant testified that, after she emerged from the bedroom following the alleged rape, she told her mother that her private parts were painful, whereas her mother testified that she could not talk and simply gestured to her private parts, and her sister testified that she neither said a word nor gestured but simply stood there crying. Third, the complainant testified that when her sister knocked on the bedroom door during the alleged rape, the appellant shouted at her to go away, whereas the sister testified that when she knocked the complainant said in Tamil "You go first I'm okay". These inconsistencies seemed to me simply to be lapses of memory in relation to trifling details, and not tell-tale signs of mendacity.

28 The appellant suggested a number of possible reasons why the complainant and/or her mother and sister would wish to implicate him falsely. These reasons were rather speculative, but I appreciated that if he were truly innocent he might be completely in the dark as to why they would seek to frame him. Nevertheless, despite giving him the benefit of the doubt in that regard, I could not see any plausible reason for their wanting to frame him. The appellant also argued that there were parts of the complainant's story that did not make sense. First, he argued that it was unbelievable that the complainant would not have gone to the police if it were true that he abused and touched her prior to the alleged rape. However, I did not think it unbelievable given her young age and the fact that she did tell other people about it. Second, the appellant argued that, on the night of the alleged rape, it was unbelievable that the complainant and her mother would have been willing to get into the taxi with him given what had allegedly transpired in the afternoon, ie, his molesting the complainant. But again I did not think this unbelievable because it could simply be that the complainant and her mother did not expect that the appellant would go further and commit rape, and furthermore there was evidence that the complainant's mother was accustomed to obey the appellant from a mix of fear and low self-esteem.

29 Finally, there was the medical evidence to contend with. If the complainant lied that the appellant penetrated her, it would have to mean either that someone else penetrated her around the same time, a fact which she then swiftly exploited to frame the appellant, or that she somehow inflicted the hymen tears and muscle abrasions on herself in order to buttress her lie. I considered those alternatives to be most improbable.

Conclusion

30 For all these reasons, even taking into account the fresh medical evidence adduced on appeal, I did not think it at all probable that the complainant was untruthful in making her allegations against the appellant. I was therefore satisfied that there was no reasonable doubt that on 28 December 2006 the appellant committed the offences against her with which he was charged. I therefore dismissed the appeal against conviction. I likewise dismissed the appeal against sentence. I did not think that the individual sentences imposed in respect of each of the two charges was manifestly excessive; and I did not think that the judge below erred in ordering that the sentences run consecutively rather than concurrently as the total punishment of 11 years' imprisonment and 8 strokes of the cane was clearly not manifestly excessive.