

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

H.C.A. 2472 of 2003

Cr. No. 67 of 1983

THE STATE

V

SANGIT CHAITLAL

IN THE MATTER OF A REVIEW OF SENTENCE

BEFORE THE HONOURABLE MR. JUSTICE RAMPERSAD

APPEARANCES:

Ms. J. Martin and Ms. A. Gill for the State

Mr. G. Ramdeen and Mr. M. Seepersad for the Applicant

THE HISTORY

The applicant, Sangit Chaitlal, was charged with the murder of Loreen Ramroop, between the 8th and 9th of August 1981. He was committed to stand trial in the San Fernando Assize before a judge and jury and on 28th April 1983 the applicant was convicted of murder and sentenced to death by hanging. His appeal to the Court of Appeal was dismissed on the 6th of May 1985. The applicant appealed to the Judicial Committee of the Privy Council and his appeal was dismissed on the 10th of December 1986. He was placed on death row awaiting execution. Then on the 31st December 1993, His Excellency, the President of the Republic of Trinidad and Tobago commuted the death sentence to one of imprisonment for the rest of his natural life. In a constitutional motion before the High Court it was held that the sentence of imprisonment for the rest of

one's natural life was unlawful and on the 29th May 2008 it was ordered the sentence of the applicant be reviewed.

THE FACTS

The facts of the matter are fully set out in the judgment of the Court of Appeal in **Sangit Chaitlal v The State (1985) 39 WIR 295**, where Bernard JA, as he then was, delivered the said judgment.

The various bits of circumstantial evidence in the prosecution's case were as follows. (a) The applicant was a member of the family and, as such, was well known to and trusted by them. (b) Balo had claimed that she had in fact written incriminating notes at the request of and for the appellant at some time prior to the death of the deceased. (c) Balo gave the appellant the notes before the disappearance and death of the deceased. (d) The fact that it was not in dispute that, on the morning in question, the applicant had gone to the home of the deceased and asked for some ice (which it was his custom so to do) and that it was the deceased who had attended to him and that her brother, Robin, at the very least was present. (e) That, after the applicant had been served and had left the home, the deceased was seen to follow after him, dressed in the manner described by the witnesses who were then at home. (f) The deceased was last seen alive following after the applicant, and both of them were going in the direction of the home of the applicant. (g) As a member of the family not only was the applicant a well-known and trusted visitor of the household but, since he lived nearby, he would know the area and would have access to the premises without raising any degree of suspicion if he happened to have been seen thereon at the material time. (h) One of the notes which Balo identified as having been written by her for the appellant was found inside shoes belonging to Andrew Ramroop and a second one was in fact handed by the appellant (through Police Inspector Estrade) to Inspector Nelson after the former had retrieved it from his home following a caution by Inspector Nelson to him relating to the murder of the deceased. (i) The clothing of the deceased in which she was dressed when she was last seen alive following after the applicant and that in which the latter was seen to be clad at the

material time were discovered together in and retrieved from the pit of the outhouse where the applicant then lived, and some of those items were partly burnt. (j) Hassanali saw the applicant carrying what appeared to him to be a heavy bag on his shoulder on the afternoon of 8 April, and going into the bush with it; he later emerged there from with the bag empty and discarded it; this bag was later found near to the area where the nude body of the deceased was recovered. (k) The applicant's reference to the local corbeaux and their assistance in tracing the child; as is well known, these birds have an insatiable fetish for dead or putrid matter (whether human or animal) to which they tend to be attracted by sight or smell; the birds are well known for their tendency to ferret out dead or putrid matter and to be in their habitat in these surroundings; evidentially there was nothing at the point in time at which the applicant allegedly made the observation to suggest to anyone that the child was dead and that her body was lying in a place where corbeaux could feast or (for that matter) would have cause to ferret out the area with a view to this.

The applicant after being cautioned for the offence admitted orally that he did commit it albeit that he was not the only one involved.

THE LAW

First, general consideration ought to be given to the five principal objects of sentencing as enunciated by Chief Justice Wooding in the case of **Benjamin v The Queen (1964) 7 WIR 459**; and they are the retributive or denunciatory, the deterrent vis-à-vis potential offenders, the deterrent vis-à-vis the particular offender, the preventive which aims at preventing the particular offender from again offending by incarcerating him for a long period and the rehabilitative object of sentencing, which contemplates the rehabilitation of the particular offender so that he might resume his place as a law-abiding member of society.

The Practice Statement (Life Sentences)

Further and more specifically, in respect of adult offenders convicted of murder, the principles set out in **Practice Statement dated 31st May 2002 and reported at [2002] 2 Cr. App. R. 18.** are instructive. This Statement introduces the concept of a minimum term of imprisonment and goes on to state at paragraph 3: “an offender is most unlikely to be released on the expiry of the minimum term and for the purpose of calculating the earliest date of normal release on licence the minimum term is approximately the equivalent of a determinate sentence of twice its length. So a minimum term of 14 years is equivalent to a determinate sentence of approximately 28 years.”

Where an adult offender is convicted of murder, the Statement sets a higher and a normal starting point of respectively 16 years (comparable to 32 years) and 12 years (comparable to 24 years). The Statement identifies at paragraph 10, the types of cases falling within the normal starting point of 12 years which involve “the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other.” This normal starting point can be reduced to take account of various mitigating circumstances identified in paragraph 11. Such circumstances include cases that come close to the borderline between murder and manslaughter, where the offender suffered from a mental disorder which lowered the degree of his criminal responsibility for the killing or the case involved an overreaction in self-defence.

Paragraph 12 of the Statement provides for the higher starting point of 15-16 years (comparable to 30-34 years). These apply to cases where the offender’s culpability was exceptionally high, or the victim was in a particularly vulnerable position. Such cases would be characterized by a feature which makes the crime especially serious such as;

- (a) that the killing was “professional” or a contract killing;
- (b) the killing was politically motivated;
- (c) the killing was done for gain in the course of a burglary or robbery;
- (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or a potential witness);
- (e) the victim was providing a public service;

- (f) the victim was a child or was otherwise vulnerable;
- (g) the killing was racially aggravated;
- (h) the victim was deliberately targeted because of his or her religion or sexual orientation;
- (i) there was evidence of sadism, gratuitous violence and sexual maltreatment, humiliation or degradation of the victim before the killing;
- (j) extensive and/or multiple injuries were inflicted on the victim before death and;
- (k) the offender committed multiple murders.

The starting point may be varied upwards or downwards to take account of aggravating or mitigating factors relating either to the offence or to the offender in the case.

Aggravating factors relating to the offence can include:

- (a) the fact that the killing was planned;
- (b) the use of a firearm;
- (c) arming with a weapon in advance,
- (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body;
- (e) particularly in domestic violence cases the fact that the murder was a culmination of cruel and violent behaviour by the offender over a period of time.

Mitigating factors relating to the offence will include:

- (a) an intention to cause grievous bodily harm rather than to kill;
- (b) spontaneity and lack of pre-meditation.

Mitigating factors relating to the offender may include:

- (a) the offender's age;
- (b) clear evidence of remorse or contrition;
- (c) a timely plea of guilty.

It should also be noted that the Statement provides that among the categories of case referred to in paragraph 12; some cases may be especially grave. These include such cases, inter alia, as murder of young children. Furthermore, in such cases, a term of 20 years (with a determinate sentence of 40 years) and upwards could be appropriate. In cases of exceptional gravity, the court, instead of imposing a minimum term can state that there is no minimum period which can be set in the particular case.

In the instant matter the court is of the view that the higher starting point of 17 years (with a determinate sentence of 34 years) is applicable. The applicant's culpability was exceptionally high; he was a relative of the deceased and hence was in a position of trust which, on the fateful day, appears to have facilitated him initially to lure the victim away from her home. Furthermore, there was evidence that the victim was sexually assaulted before she was manually strangled to death. The victim was particularly vulnerable given that she was a nine year old child.

Now, according to paragraph 13 of the Statement, "whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate either to the offence or the offender." The court finds the circumstances, in which the applicant attempted to conceal the body and destroy the crime scene by attempting to burn the clothing worn by the victim in a pit is a further aggravating factor relating to the offence. Therefore, the court is of the view that the starting point of 17 years (with a determinate sentence of 34 years) ought to be adjusted upwards accordingly in the instant matter.

Nevertheless, in mitigation much credit may be given to the applicant particularly where he has demonstrated involvement in prison rehabilitation programmes. He has acquired

certification in computer literacy, music theory and has participated in training sessions which involved courses in stress and conflict management, as well as tutoring in adult literacy at the prison. Furthermore, the court is also mindful of the period of time spent on death row which amounts to just over 7 calendar years.

CONCLUSION AND SENTENCE

The court has a duty to protect all persons in society, especially young children who are particularly vulnerable. The sentence imposed on the applicant must send a clear signal that the courts shall treat heinous crimes committed against children with such severity as the circumstances warrant.

Having regard to all the circumstances of this case and applying the principles and relevant factors as stated above, the court finds the appropriate determinate sentence to be imposed is 35 years to commence from the date of conviction.

The court is very grateful for the assistance given by counsel in this matter

Dated this 11th day of November 2009

Devan Rampersad
Judge