



PRESS SUMMARY

27 March 2014

Ramdeen (Appellant) v The State of Trinidad and Tobago (Respondent)

[2014] UKPC 7, JCPC 2012/0077

JUSTICES: Lord Neuberger, Lord Mance, Lord Kerr, Lord Sumption, Lord Toulson
On appeal from the Court of Appeal of Trinidad and Tobago

BACKGROUND TO THE APPEAL

On Christmas Day 2003 the body of a man, Carlos Phillip, was discovered in a pond in Trinidad. He was naked, bound and gagged. There were superficial injuries to his head and face, but his death had resulted from stab wounds to his neck. He had last been seen alive on 23 December 2003. On that day he had made and received mobile telephone calls with Ms Ramdeen, who ran a call-girl business.

Ms Ramdeen was arrested on 23 January 2004, and allegedly confessed to the killing to police. The account in her written statement was that she had agreed to have a ‘threesome’ with Mr Phillip at her flat. On his arrival, he behaved drunkenly and aggressively. A fight ensued, in which she repeatedly hit Mr Phillip on the head with a brick. She then called an acquaintance for advice, who told her that she had to kill Mr Phillip. She did this by cutting and stabbing his neck with the knife and, together with the acquaintance and his friend, attempted to dispose of Mr Phillip’s body.

Another man, Mr Bruzual, was arrested in connection with the offence. He obtained immunity from prosecution in return for giving evidence at trial. His account was that he, Ms Ramdeen and a Mr Abraham had planned to carry out a robbery using Mr Phillip’s car. Ms Ramdeen lured Mr Phillip to the flat, where Mr Bruzual and Mr Abraham were lying in wait. Mr Abraham hit Mr Phillip on the head with a block, before stabbing Mr Phillip with a knife. Ms Ramdeen and Mr Bruzual then hit Mr Phillip with blocks. Mr Abraham used the knife to kill Mr Phillip, and they attempted to dispose of the body.

Ms Ramdeen and Mr Abraham were together tried for murder. The prosecution sought to rely on both accounts. The judge, Brook J, instructed the jury that they were not to “marry together” the two different accounts, but were first to consider Bruzual’s account in relation to both defendants. If they rejected Mr Bruzual’s account, they were then to consider the case against Ms Ramdeen alone based on her alleged statement. On 29 July 2008 both Ms Ramdeen and Mr Abraham were convicted of the murder of Carlos Phillip and sentenced to death. Their appeals against conviction were dismissed by the Court of Appeal of Trinidad and Tobago on 26 February 2010. Ms Ramdeen was given permission to appeal to the Privy Council against her conviction on three grounds:

- That the judge misdirected the jury on the approach which they were to take to the separate accounts of Ms Ramdeen and Mr Bruzual;
- That the judge wrongly failed to leave provocation to the jury as a possible defence; and
- That the judge wrongly failed to direct the jury that Ms Ramdeen’s good character went to her credibility, as well as her propensity to act in the fashion alleged.

Following the grant of permission to appeal against conviction, Ms Ramdeen applied for permission to appeal against sentence on the basis that delay rendered her execution inhuman punishment.

JUDGMENT

The Board unanimously dismisses Ms Ramdeen’s appeal against conviction. The leading judgment is given by Lord Toulson. The judge’s directions on the different prosecution accounts were clear, fair, and appropriate [20].

There was no evidential basis for provocation to be left to the jury [28-29]. The good character issue only arose if the judge was wrong not to have left provocation to the jury [30].

The Board allows Ms Ramdeen's appeal against sentence by a majority (Lords Mance and Sumption dissenting). The majority hold that even where there is no right of appeal or no appeal against sentence, the Board can commute a sentence where it has jurisdiction over the case, at least where the ground for commutation arises out of court procedures or decisions [47, 63]. The minority would have held that the Board has no such jurisdiction, and that constitutional protection from inhuman punishment must be sought from the President of the Republic or from the High Court in separate proceedings [73].

REASONS FOR THE JUDGMENT

Appeal against conviction

- The Appellant argued that Brook J should have told the jury that they were free to accept parts of Mr Bruzual's evidence and parts of Ms Ramdeen's statement, and that parts of the statement could give rise to a defence of provocation even if the jury accepted Mr Bruzual's overall account [13]. However, the judge never suggested that the defence (as opposed to the prosecution) were prevented from relying on Ms Ramdeen's confession statement [18]. It was open to the defence to use the statement, and the judge's directions had been clear, fair, and appropriate [19-20].
- The judge had a duty only to leave provocation to the jury if there was evidence of loss of self-control. He had considered that there was no such evidence [23-24]. The Appellant's argument was that there was an evidential foundation for the defence even if Mr Bruzual's account was true, but that was speculation. Even on the confession statement, moreover, there was no evidence of loss of self-control. The judge had been right but, given the jury's conclusions, the question was in any event irrelevant [28-29].
- The third ground arose only if the second ground had been well-founded [30].

Appeal against sentence

- Lord Toulson (with whom Lord Kerr agrees) and Lord Neuberger give judgments for the majority. The State relies on *Walker v The Queen* [1994] 2 AC 36. In that case, however, there was no substantive appeal against conviction, and no right to appeal against the (mandatory) death sentence. The Board had effectively been asked to decide the point as a first instance court [38, 66]. In *Matthew v The State of Trinidad and Tobago* [2005] 1 AC 433, however, the Board had exercised its power under s. 14(2) of the Constitution of Trinidad and Tobago to substitute a sentence of life imprisonment for a death sentence, notwithstanding that the death sentence had been lawful and its imposition had been unappealable [44-46, 64-65]. In the instant case there was a substantive appeal against conviction, by which the court was seised of the case. The appellate process had itself caused the delay on which Ms Ramdeen relied. The Trinidadian Court of Appeal had commuted mandatory death sentences in such circumstances [41]. The Board has jurisdiction, and should exercise it to commute the sentence to life imprisonment [59, 63, 68]. Any other conclusion is incompatible with *Matthew* [54, 65].
- Lord Mance (with whom Lord Sumption agrees) dissents. The Board is not seised of any appeal against sentence, and there is no basis to exercise the jurisdiction under the Constitution, which belongs to the President or the High Court [73-77]. No one suggested that that jurisdiction was ineffectual or inapplicable here [77, 94]. The Appellant sought to have the case remitted to the local court for sentence, which impliedly acknowledged the preferability of a sentence decision being made by that court [78-79]. The Board should not lightly usurp a local jurisdiction [79]. The case fell within the *Walker* principle: there was no challenge to the constitutionality of the sentence, only to its implementation [80-87]. *Matthew* was concerned with a unique situation, where the Board's departure from one of its own previous decisions had the potential to cause unfairness [90-91].

References in square brackets are to paragraphs in the judgment

NOTE

This summary is provided to assist in understanding the Committee's decision. It does not form part of the reasons for that decision. The full opinion of the Committee is the only authoritative document. Judgments are public documents and are available at: <http://www.jcpc.uk/decided-cases/index.html>.