

EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

SAINT LUCIA
CASE NO. SLUHRD2012/0556

BETWEEN

THE QUEEN

vs.

CRAIG NELSON

Appearances:

Mr. Jeannot-Michelle Walters for the Defendant

Ms. Tamara Foster-Calderon Crown Counsel for the Crown

2015: January 20, 22, June 5
July 14

Sentencing – Dangerous Harm - Domestic Violence Against a Common Law Partner – Generally Same Principles of Sentencing as Relevant to Non-Domestic Setting – Offence Requiring emphasis on Denunciation and Deterrence – Public Policy Consideration that Parties in Domestic Relationship should Feel Safe – Dangerous Harm Grounding Presumptive Custodial Sentence.

Range of Sentence - Two Categories of Dangerous Harm – Dependent on Degree of Culpability – Aggravating Factors Grounding Greater Culpability – Pattern of Abuse - Targeting Vulnerable Victim – More Serious Category of Dangerous Harm - Notional Range of Sentence 8 to 12 years with Starting Point of 9 years.

DECISION

[1] **RAMDHANI J. (Ag.)** The defendant, Craig Nelson was indicted on the 16th May 2013, on a two-count indictment for the offences of Dangerous Harm and Grievous Harm, the second being charged in the alternative as arising from the same incident. He pleaded not guilty to the charges and his trial began on the 20th January 2015 before a jury of his peers. After two days of trial, he asked through his attorney, Mr. Nichols, that the

indictment be read again to him. This time he pleaded guilty to the offence of causing dangerous harm to his one time common law partner, Antonia Anthony, and the second and alternative charge fell away.¹

- [2] The evidence in this case show that the defendant and the virtual complainant were involved in common law union for several years and at the relevant time were residing together at premises at Rose Hill. In March 2012, she was six months pregnant with the defendant's baby.
- [3] On Saturday, the 3rd day of March 2012, the defendant came home drunk and the virtual complainant began quarrelling with him about his drinking. During the argument she slapped him across the face. This angered him and he retaliated, punching her several times in the stomach and face.
- [4] The quarrel and assault ended in sexual intercourse during which the virtual complainant felt the need to use the toilet. In her attempt to do so, she gave birth. Emergency medical services arrived at the scene. The medical team noted that the fetus was 'still born' and that the virtual complainant was bleeding profusely. They transported the virtual complainant and the fetus to the Victoria Hospital where she was attended to by the medical staff including Dr. Rachel Thwaites and Dr. Nadia Samuel.
- [5] The medical evidence, through the reports of the Dr. Thwaites and Dr. Samuel show that virtual complainant suffered severe injuries as a result of trauma. The medical report of Dr. Samuel dated 3rd March 2012, records under the heading 'Other Significant Aspects of Injury' state *inter alia* that the 'trauma resulted in placental abruption leading to fetal demise and DIC necessitating laparotomy and hysterectomy as life saving procedures. Good recovery made following massive transfusions at ICU admission. Will never have children of her own.'

¹ He was sentenced on this charge on the 5th June 2015. The court promised a written judgment. This is that judgment.

[6] The defendant had initially denied the offence and had claimed at trial through cross-examination that virtual complainant had fallen on some wet steps. At the date of the incident, he had been interviewed by a probation officer and had claimed that he and the virtual complainant did in fact get into an argument after he had confronted her about her having sex with his close friend. He said that at the time he had in fact struck her, but did not strike her in her abdomen as he knew she was six months pregnant.

The Virtual Complainant – Impact of the Offence

[7] The victim of this dangerous harm is Ms. Antonio Antony who is now 22 years old. She had suffered a really serious injury and a lasting and life long disability from this incident. Having had her reproductive organ removed in an effort to save her life following the dangerous harm caused to her, she can no longer bear children.

[8] She had entered into this relationship with the defendant when she was 17 years old and even from the early days he would physically abuse her, often for minor and trivial matters but often associated with his consumption of alcohol.

[9] She has now moved on with her life since the incident and his remand. She is currently in another relationship, but the fact that she cannot bear children has been an issue in that relationship and sometimes the nagging element during heated conversations. It has affected her present relationship; she states that her current partner sees the fact that she cannot have children as 'a fault in her'.

[10] She is obviously still seriously distressed about her present condition. Her emotional turmoil became evident when she was giving evidence in this matter. During her testimony she had cried uncontrollably when she began to speak to her injuries and the fact that they meant that she was now unable to bear children. This loss has resulted in her having suicidal thoughts from time to time which the reports states, continues even to today.

The Pre-Sentence Report

- [11] At the date of sentencing, the defendant was presented to this court as a 34 year old construction worker with one previous conviction for the offence of harm that was disposed of summarily in 2002. Having regard to the date of this offence, I consider that it is not relevant to this sentencing exercise.
- [12] The defendant has two brothers and four sisters all of different fathers. He grew up in harsh circumstances and when his father lived with his mother, they shared an abusive relationship punctuated by physical and other types of violence.
- [13] He was educated at the Rockwell Senior Primary School and then at the Center for Adolescent Renewal, C.A.R.E. where began a course in Auto Mechanics but did not complete it. On his own take, his reading and writing skills as 'very good'.
- [14] Before he turned to construction work with his father, he had worked with Bryden's some ten years ago and then left to work with Caribe Pasta Ltd. for one year.
- [15] His family members have variously describes him as helpful and nice; that he is not known as being a violent person. Community members said that while they considered that he was cantankerous when he was under the influence of alcohol, he was not known to be violent. The same community members stated that they believed that he deserved a second chance. The view was expressed that when he was under the influence he became a disrespectful person.
- [16] I now turn to consider the principles relevant to sentencing with regard to maximum penalty for this offence.

Maximum Penalty and the Relevant Principles

- [17] Section 99(1) of the Criminal Code Chapter 3.01 of the Revised Laws of St. Lucia states that the maximum penalty that may be imposed on conviction for this indictable offence is twenty years imprisonment.

- [18] The court in the context of the maximum sentence has a wide discretion in deciding on the appropriate sentence in any given case.² Several statutory prescriptions guide the court in fixing this sentence. These stipulate *inter alia* that the court must bear in mind that the rehabilitation of the offender is one of the aims of sentencing.³ The legislation also remind the court that the gravity of the punishment must be commensurate with the gravity of the offence, and that further a custodial sentence must not be imposed unless in all the circumstances of the case it is warranted.
- [19] A court is well reminded of the other relevant principles that must be considered in any sentencing exercise. The Court of Appeal's in **Desmond Baptiste et al** Criminal Appeal No. 8 of 2003, accepted that every sentencing court must bear in mind the classic aims of punishment, namely retribution, deterrence, prevention and rehabilitation. To my mind a proper application or consideration of these principles requires every sentencing court to have regard to the offence, the manner of its commission and the personal characteristics of the offender and ask itself a number of questions.
- [20] The principles at work requires a court to ask itself whether the offence is one which the punishment should contain an element of retribution not in the biblical sense of extracting an eye for eye but so that it reflect society's abhorrence and distaste for this kind of offence, and this particular offence.
- [21] The court is also to ask itself whether the punishment must also contain an element of deterrence both in the specific and general sense. Would a custodial sentence be likely to prevent this offender from reoffending?⁴ Would such a sentence also be likely to prevent likeminded persons from committing similar offences? This aspect of punishment is often called in aid when a particular offence prevalent in society.

² Section 1123 of the Criminal Code, Cap 3.01

³ Section 1102(2)(a) of the Criminal Code, Cap 3.01

⁴ See *R. v Curry (Michael John)* [2009] EWCA Crim 2812 where the Court of Appeal agreed that the trial judge had good reason to find that 'the appellant was a man with a strong tendency to commit acts of violence against women when he was in drink' and the court stated that 'there was a strong likelihood that there would be other victims in the future if a deterrent sentence were not passed.'

- [22] Regard must also be had the preventative aim of sentencing and the court is to ask itself whether there is a need to impose such a sentence which would keep this offender away from the public to prevent him from reoffending. It is usually imposed where the offender poses a danger to the public.
- [23] The court must also always consider the rehabilitation of the offender and ask itself what measure of punishment or kind of sentence could operate to rehabilitate an offender who is capable of being rehabilitated.
- [24] As was noted by Lawton LJ in **R v Sargeant**:
- “Any judge who comes to sentence ought always to have those four classical principles in mind and to apply them to the facts of the case to see which of them has the greatest important to the case in which he is dealing.”*
- [25] With due considerations of these principles, a court is to examine the offence and offender and identify those aggravating and general mitigating features as well as the personal mitigating features of the instant offender. This is to be an evaluative exercise performed within the context of the relevant sentencing principles.
- [26] To my mind it would be useful for a court to consider first the offence, its aggravating and general mitigating features, and decide first whether a custodial sentence is presumptively appropriate. Having decided this, the court should then, with the aggravating and mitigating of the offence itself, look to the established or notional range of sentences for this kind of offence and consider whether the sentence should remain in this range or at the notional starting point and if not, fix a notional appropriate sentence for the offence. It makes sense for me then with this presumptively appropriate sentence in mind to turn to the personal mitigating features of the particular offender to determine whether these, if any exists, should vary this presumptive sentence downwards or in the rare case, upwards. At this stage, the court should also consider whether there are any other matters of mitigation, outside of the offence and the offender such as a guilty plea, or delay, or the manner in which the case was conducted, by either the prosecution or the defendant. These may well operate to determine the ultimate sentence.

The Offence – Is a Custodial Sentence Presumptively Warranted?

- [27] The offence of dangerous harm falls in that category of violent offences that are prevalent in St. Lucia. The cases show that custodial sentences are invariably considered for every offender and it would be a rare case that a custodial sentence would not be considered presumptively appropriate. Violence committed in a domestic setting is to be seen as no less serious than violence committed in other settings. Before rehabilitation is factored in to inform the final sentence, the very nature of these offences brings to the fore the denunciatory and deterrence aims of punishment. From the outset therefore, I am of the view that this is one of those offences that presumptively should carry a custodial sentence.
- [28] In looking at the other aggravating and mitigating factors in the offence itself to fix a notional sentence, it is necessary that this court have regard to that the established ranges by previous cases since there are no formal sentencing guidelines in place for this offence.
- [29] In **R v Ali Mohamed**, Case No. 929 of 2011, Cumberbatch J. having regard to the aggravating and general mitigating features of the offence, considered that 10 years was a suitable benchmark on a charge of dangerous harm. In **Ali Mohammed**, the 18 year-old defendant became involved in a dispute with the victim whilst the latter was dancing with a certain lady who was not associated at all with the defendant. A scuffle ensued and the defendant stabbed the victim with a knife. He continued stabbing until he was stopped. The victim had to undergo two surgeries by way of treatment. The defendant who was regarded as a troublemaker and rebellious, admitted to using marijuana and cocaine had five previous convictions for stealing and assault. He showed no remorse for the injuries. The court found that the location and nature of the injury was potentially life threatening. The only mitigating factors were his age at the time of the offence and the fact that he pleaded guilty at the first possible opportunity. The court considered the risk factors associated with him reoffending and sentenced him to five years imprisonment.

- [30] In **R v Vernon Paddy** BVIHRC2010/0020, the defendant pleaded guilty to the offence of grievous harm with intent and was sentenced to eight years imprisonment with an order to pay compensation. The virtual complainant was his wife and he had hit her repeatedly on the head with a hammer.
- [31] Another case involving violence in the domestic relationship is **R v James Valton** Case No. 2011/2187. The defendant violently assaulted his wife as a result of that she sustained a fracture to the maxilla bone and other injuries to her face. The defendant was sentenced to six years imprisonment and three years probation subsequent to his release.
- [32] The guidelines also presented for my consideration, the case of **R v Lenzie Polemis** Case No. 1147/2008 in which the offender was found guilty of grievous harm, **an offence that carries a maximum of 15 years**. His early plea of guilty resulted in a reduced custodial sentence of five years imprisonment together with compensation in the sum of \$8,000.00 to the virtual complainant. In that case the virtual complainant suffered six severe lacerations to the forearms, shoulder, back and anterior abdomen and his left toe was severed.
- [33] Another case I was asked to consider is **R v Brad Augustin** Case No. 0484/2009. The offender in this case committed the offence of dangerous harm by inflicting multiples injuries to right side of the virtual complainant's head which resulted in the total rupture and loss of the right eye. After considerations of both the aggravating and mitigating features of the offence and the offender, a custodial sentence of seven years was imposed on him.
- [34] I have also considered as being useful to this sentencing exercise, the UK Sentencing Guidelines for the offences of causing grievous harm, wounding with intent and other assault offences. I note that it has been recommended that these types of offences should be placed in three categories, namely: (1) category one which involves greater Harm (Serious Injury) and Greater Culpability; (2) Category Two – Greater Harm and Lower Culpability or Lesser Harm and Higher Culpability; and (3) Category Three – Lesser Harm with Lower Culpability.

- [35] Using the UK Guidelines as a reference point, since the offence of dangerous harm always require proof of actual dangerous harm, this offence of dangerous harm could really only fall into two categories, namely (a) where the dangerous harm is accomplished by a higher degree of culpability, and (b) where the dangerous harm is accompanied by a lower degree of culpability.
- [36] The UK guidelines go on to set out factors that determine whether an offence should be regarded as falling into 'Higher Culpability' category. These factors include: (a) Offence racially or religiously aggravated, Offence motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation (or presumed sexual orientation), (b) Offence motivated by, or demonstrating, hostility to the victim based on the victim's disability (or presumed disability), and (c) Other aggravating factors: A significant degree of premeditation, Use of weapon or weapon equivalent (for example, shod foot, head-butting, use of acid, use of animal), Intention to commit more serious harm than actually resulted from the offence, Deliberately causes more harm than is necessary for commission of offence, Deliberate targeting of vulnerable victim, Leading role in group or gang, Offence motivated by, or demonstrating, hostility based on the victim's age, sex, gender identity (or presumed gender identity)."
- [37] Factors which will indicate a lower degree of culpability include Subordinate role in group or gang, A greater degree of provocation than normally expected, Lack of premeditation, Mental disorder or learning disability, where linked to commission of the offence, Excessive force used in self defence.
- [38] I consider that the experience of courts has shown that a useful starting point for this offence having regard to the maximum, and the degrees of harm and culpability involved, **for the purposes of this court in this type of matters**, a starting sentence of 10 years where the offence involves greater culpability with a range of 9 years to 12 years. Where this offence involves lesser culpability, a starting sentence should be 8 years with a range of 7 years to 9 years. Where higher culpability is found, I am be prepared to find a

benchmark at the higher end of the scale if the case is one of 'particular gravity' with multiple features of higher culpability. These starting sentence should be set before any discounts or reductions is given for guilty pleas and mitigating features in the case.

The Wishes of the Victim in Domestic Violence Cases

[39] It has been accepted that the sentence imposed must generally be commensurate sentence and must not be based on the wishes of the victim.⁵ The UK Sentencing Guidelines states that:

"[t]here 'are a number of reasons why it may be particularly important that this principle is observed in a case of domestic violence:

- *it is undesirable that a victim should feel a responsibility for the sentence imposed;*
- *there is a risk that a plea for mercy made by a victim will be induced by threats made by, or by a fear of, the offender;*
- *the risk of such threats will be increased if it is generally believed that the severity of the sentence may be affected by the wishes of the victim.*

[40] It is for these reasons I consider that the point is made with even more force that 'serious domestic violence will receive substantial punishment even if the victim can be prevailed upon to make pleas for clemency.'⁶

[41] Notwithstanding, it is also accepted that in these types of cases, the wishes of the victim might, in an appropriate case, influence the eventual sentence. The UK Sentencing guidelines states that:

*"...there may be circumstances in which the court can properly mitigate a sentence to give effect to the expressed wish of the victim that the relationship be permitted to continue. The court must, however, be confident that such a wish is genuine, and that giving effect to it will not expose the victim to a real risk of further violence. Critical conditions are likely to be the seriousness of the offence and the history of the relationship. It is vitally important that the court has up-to-date information in a pre-**sentence** report and victim personal statement."*

"Either the offender or the victim (or both) may ask the court to take into consideration the interests of any children and to impose a less severe sentence.

⁵ R. v Nunn [1996] 2 Cr. App. R. (S.) 136

⁶ R. v Majeed (Tariq) [2011] EWCA Crim 1409 at para. 14.

The court will wish to have regard not only to the effect on the children if the relationship is disrupted but also to the likely effect on the children of any further incidents of domestic violence.”

- [42] In my view these are sound principles and would be of great assistance to this court. I note that even the European Court of Human Rights has accepted that these are sound principles to be applied in these types of cases. See **Wilson v United Kingdom (Admissibility) (10601/09)** (2014) 58 E.H.R.R. SE10 European Court of Human Right.

Aggravating and General Mitigating Features of the Offence

- [43] It is important to note that when crimes of violence are committed in a domestic setting it is likely that they may contain special aggravating features that will affect the eventual punishment.
- [44] In this context the UK Sentencing Council has made the point that it is relevant to ascertain the context within which the offence occurred, and whether in particular as in this case, there was a pattern of abuse. This by itself is an aggravating feature of this offence. The ‘Victim Impact Statement’ which was read into evidence without objection or challenge from the defendant, reveals that the virtual complainant entered into this relationship with the older defendant when she was only 18 years old and he was already in his thirties, and that even from those early days, the defendant would commit acts of violence on the person of the virtual complainant. On occasions he would hit her simply if she looked at another man.
- [45] Another aggravating feature of these types of offences and also present in the instant offence is the breach of trust that takes place in the commission of the offence. Parties in such relationship develop an understanding that there would be a ‘mutual expectation of conduct that shows consideration, honesty, care and responsibility. In some such

relationships, one of the parties will have the power to exert considerable control over the other.' The actual violence in this case was a breach of that trust.¹⁷

- [46] Another aggravating feature in these types of offences and which was also present in this case is where the victim is particularly vulnerable and advantage was taken of that vulnerability. In this case, the defendant was aware his partner being six months pregnant was particularly vulnerable and yet he repeatedly struck her in the stomach.
- [47] It was also particularly aggravating that the injuries were such that they directly resulted in the premature termination of the pregnancy and the loss of the fetus.
- [48] The virtual complainant had to undergo a hysterectomy as a life saving procedure and can no longer have children and today continues to suffer from negative psychological and emotional effects of this incident and these consequences.
- [49] This court has noted that the incident itself was precipitated by some degree of provocation by the virtual complainant when she was admonishing the defendant about his alcohol consumption. She slapped him across his face, and he in turn launched an attack on her. Whilst her act of slapping could in no sense justify his actions, having regard to its obviously provoking nature, it will provide some minimal general mitigation to the sentence.
- [50] I must clearly say that I had no regard to his alcoholic state as being a mitigating feature. It is not.
- [51] All things considered, the facts that this defendant has had a history of violence of being violent towards the virtual complainant, and the act that he targeted her stomach when he was deliberately hitting her knowing that she was six months pregnant brings this offence into the higher culpability category and so an appropriate benchmark or starting point would be a sentence of 10 years.

¹⁷ UK Sentencing Guidelines Council – Overarching Principles, Definitive Guidelines, Published by the Sentencing Guidelines Secretariat, December 2006

[52] I now turn to consider those personal mitigating features of the defendant.

Personal Mitigating Features of the Defendant

[53] The defendant must be treated as a man with no previous convictions having regard to the fact that the one offence he had previously committed was a summary one which was disposed in 2002. That being said however, the fact that is to be treated as being a first time offender can only go so far as there has been no dispute that he was very instrumental in making this relationship a violent one.

[54] He has also expressed considerable remorse in this matter, for hitting the virtual complainant and for causing her the injuries she suffered. I do note that he has diluted this remorse somewhat by continuing to maintain that he hit her because of his belief that she was behaving inappropriately with another man.

[55] Nonetheless, these mitigating features will operate to give some reduction on the benchmark and will inform the appropriate sentence. The defendant has asked that after I have fixed this sentence I should have regard to his guilty plea and afford some discount on the sentence. I now turn to consider that issue.

The Guilty Plea

[56] After the virtual complaint was called to give evidence and had suffered the trauma of having to relive the experience and recall her loss, breaking down into tears on the witness stand, this defendant indicated that he was prepared to plea guilty to the charge. The indictment was reread to him and he entered a guilty plea to the first count of dangerous harm on the indictment. The second count fell away.

[57] Should he be entitled to a discount for this late plea?

[58] It has been well recognized by the courts that a guilty plea will generally operate to reduce an otherwise appropriate sentence. It would seem that it is now standard in our jurisdiction that where a reduction is appropriate a full one third should be given if the defendant pleads guilty at the first reasonable opportunity. Drawing on the English cases and the UK Sentencing Guidelines, it would seem that after that the first reasonable opportunity has passed there should be a sliding scale method of deciding on the appropriate reduction for the plea. Where the plea is made before the trial is fixed, a defendant should generally be entitled to a twenty five per cent discount. Where the matter is at the door of the trial, then he may be entitled to a ten per cent discount.

[59] The reduction is also given to encourage defendants to accept responsibility and acknowledge the harm they have caused to the victim and society; it contributes to the healing process.

[60] This court was hard pressed to give any discount to this defendant as it was two days into evidence and after the virtual complainant had gone through the trauma of testifying that he threw in the towel. On the converse, it is also possible that the victim was able to have some release for being able to publicly address her pain on her injuries and loss.

[61] He has saved the virtual complainant having to await a jury's verdict to bring some closure to this matter. She can at the very least now know that he has accepted publicly that he has caused this harm to her. I have considered therefore, that for this reason, as well as the limited savings of the court's resources, he will get a discount on the sentence for his plea of guilty.

Final Remarks

[62] This is really a sad case. It identifies and brings into the light, the misery and violence that the abuse of alcohol brings to our societies. It underscores how alcohol not only creates but also sadly shapes conflict resolution within many spheres of society not least in the domestic setting. It is said alcohol itself does not cause violence, but rather it releases

inhibitions and where violent tendencies and inclinations exist then they will draw to the fore.

[63] Some societies have argued that the courts should be ready to treat domestic violence in the same manner as violence in other social settings. I agree. As it has been said, 'domestic violence of course a serious social evil for it renders women fearful at home, the one place where they should feel safe.'⁸ I am further of the view that more care is required in dealing with the issues involved in these types of offences and to find solutions not only for the instant defendant and victim but also for others who fall in the same risk zone.

[64] This was a sad and tragic offence. It was clearly dangerous life threatening harm. Our law does not yet recognize that an unborn fetus has life in the legal sense. This court must not forget that and legally consider that a child was killed; legally there was no child. Nonetheless this act of spontaneous violence from an ever-ready abuser has resulted in lasting consequences for this lady. She is scarred physically and emotionally. She is no longer able to have a child; the consequences are life lasting.

[65] The court as the voice of society in these instances must express its disapproval and distaste for this base act in the strongest way. There is no doubt in my mind that a custodial sentence is the only fitting sentence in this matter. This is necessary to prevent this offender, who has admitted to being a habitual abuser from reoffending again. It is also necessary that likeminded people in society generally and especially those in domestic relationships pay heed. There is going to be the same approach to general violent offenders and violent offenders in a domestic setting.

[66] In noting the starting sentence of 9 years, I am very cognizant of the rehabilitation goals of this sentencing process. Whilst historically domestic violence programmes were publicly recognized for calls on abused women and men to come forward and report the abuse, greater public focus is now turning to the abusers, searching for causes and trying to find solutions. Sadly, the solutions are not easily found. The result is that courts are to bridge

⁸ R. v Majeed (Tariq) [2011] EWCA Crim 1409

the gap and are called on to fashion sentences to meet not only the acts of violence but also, in seeking to rehabilitate this misplaced offender and to reintegrate him in society in the fastest possible time, to send public messages to would be offenders.

[67] I have noted the conclusions of the probation officer in the presentence report where it is said that the defendant:

“...displayed a level of honesty as it related to his behaviour when under the influence of alcohol. Community reports were mixed concerning this young man, and by his own admission, he revealed some of his violent propensities especially when intoxicated. Without much difficulty, it can be seen that this young man is in need of some form of intervention, for both his alcohol consumption, and aggression reduction. If these two main risk factors are left unattended, the likelihood of him reoffending is high.”

[68] I have laboured under considerations of whether a short brief sentence coupled with some mandatory counseling sessions and therapy could have worked for this defendant. Whilst it is my hope that such additional elements of the sentencing may yet work for him and his alcoholic issues I am of the view that unless he is given a strong deterrent sentence there is a real risk that he will re-offend. He came from a home where domestic violence appeared to have been the norm. It is time to break that cycle. It is therefore my firm view that having regard to the seriousness of this offence a clear denunciation of this conduct is required and an equally strong message needs to be sent to likeminded persons.

[69] I have had regard to the aggravating features of the offence, and the general mitigating feature, namely the provocation. I have had regard to his character and his clear remorse and on considerations of all these matters an appropriate sentence would have been eight years after a conviction by a jury.

[70] His plea of guilty was very late in the day and even though I was minded not to give him any further reduction, he did save this virtual complainant having to wait this verdict, and so I will give him a reduction of one year. The sentence that he will serve will be one of 7 years imprisonment.

[71] With rehabilitation in mind, I will order that he receive therapy for his alcoholic problem. He is to benefit from all such programmes as might be suitable for his re-entry into society and to reduce the risk of him re-offending.

.....
Darshan Ramdhani
High Court Judge (Ag.)