

**BARBADOS**

**[Unreported]**

**IN THE SUPREME COURT OF JUDICATURE**

**COURT OF APPEAL**

**Criminal Appeal No. 40 of 1999**

**BETWEEN:**

**JUNE ANN BRISTOL**

**(Appellant)**

**And**

**THE QUEEN**

**(Respondent)**

**Before the Honourable Colin Anthony Williams, Justice of Appeal, and the Honourable Frederick Lawrence Waterman and the Honourable Maurice A. King, Justices of Appeal (Acting)**

**2000-06-30; 2002-10-16**

**Mr Randall Worrell for the Appellant**

**Mr Dorian Taylor for the Respondent**

**DECISION**

[1] The appellant June Ann Bristol was charged with the murder on the 14th July 1998 of her husband Urias Kenute Bristol. When she appeared before the High Court on the 6th October 1999, she pleaded not guilty of murder but guilty of manslaughter. The plea was accepted by the Crown, and she was sentenced on the 22nd November 1999 to ten years imprisonment. She has appealed to this Court on the ground that the sentence was excessive.

[2] Before sentencing the appellant, the Trial Judge considered a plea of mitigation in the form of submissions by Counsel, a medical report dated the 18th November 1999 by Dr Cyralene Bryce, the Senior Registrar, Department of Psychiatry, Queen Elizabeth Hospital, and a medical report dated the 28th June 2000 by Dr Brian MacLachlan, Consultant Psychiatrist, The Psychiatric Hospital, supplemented by the oral evidence of the same Dr. Bryce.

[3] But before the Court heard the full mitigation plea, the Director of Public Prosecutions explained the reasons for his decision to [1] accept the plea of guilty to manslaughter. He spoke of her serious alcohol problem, her treatment on several occasions at the hospital, her development of a revulsion to sex arising from her being sexually abused by her father from her early childhood in Guyana, with the result that whenever her husband (the deceased) wanted sex, she refused and he raped her.

[4] He then read the statement that she wrote to the police, the relevant portion of which was in the following terms :-

"I came home from the hospital about 7 o'clock last night" - this is the night of the 13th " - cause I signed myself out. When I get home Kent" - that's the deceased - "was there. He was angry because I signed myself out from the hospital. He tell me that I am a big ass because I getting help and I don't want it. I went and bathe. When I come home I had a flask of rum and I hide it in my pillow. As soon as my daughter Vicky back was turn I throw out half of it in a Sprite bottle and put the other half under the bed. I drink the rum that was in the Sprite bottle. Kent opened a tin of luncheon meat and we were eating it. He did not know that I had rum in the Sprite bottle. After that I went in my bed and lie down with Victoria and I nod off. When I wake up I went and turn off the TV in my son Richard bedroom because he does always fall asleep with the TV on. When I was going back to my bed I see Kent standing at the door which does connect my bedroom to his. He pulled me over in his room and he tell me you mean you drinking? He like he smell the rum on my breath. He push me down on his bed and rape me. This is how he does it all the time. I just lay down on the bed and let he do it until he finish. After he finish I get up and went back over to my room and take up the rest of the rum and started to drink it. I went in the front house and start to smoke because I can't smoke in the bedroom with Victoria. I start to plan how to kill he. I went out in the yard looking for something to use. I end up picking up an iron thing that you does pound down the marl with. I wrap it up in a towel, that was the [2] only way I could get it lift because that thing real heavy. I bring it in my bedroom and I sit down on the bed just thinking. I just pick it up and went into Kent bedroom and drop the iron thing in his head. I don't know how many times I hit him but I feel I hit he more than once. I carried the iron thing by the pipe in the yard and wash it. I leave the iron thing in the yard and I put the towel in a plastic bag and walk

down the road and throw it in the bush. I come back home and I pacing in the house all night. I could not sleep because I thought Kent was unconscious and he would have wake up and beat me up. I called my friend Victor Forde from the Alcoholics Anonymous and I asked him if he could come. He asked me if I know what time it was and I told him that I was sorry for calling so late. He told me that he would call me in the morning. About three o'clock my son baby wake up crying and his girlfriend Jennifer get up to feed the baby. Richard get up to help her. After they went back to sleep I just lie down in the dark. I probably drop off to sleep and I jump up about six o'clock. I went into Kent's bedroom and I touch his foot and it was cold, cold, cold. I knew he was dead because he was cold. I came out and called my son Richard and tell him that something wrong. He went in the bedroom and look at Kent. He asked me how Kent face get so bloody, if he went out last night. I called 112 and the police come on. I tell them that I want the ambulance. Richard take the phone and talk to them."

[5] The Director of Public Prosecution then continued:-

"This basically, My Lord, is the evidence that the Crown is relying on and I thought I should just, inasmuch as the circumstances are so bizarre, in fact when I read it I thought there would only be one conclusion but having read all of the evidence in the depositions, I was minded to take the course I took for the following reasons. I have decided to accept manslaughter for the following reasons: one, there is evidence despite the heinous nature of the crime, that the accused was [3] subjected to a pattern of sexual abuse, as she calls it, by the deceased. Two, she had attempted to commit suicide some years ago and she is subject to fits of depression which renders her unstable mentally. Thirdly, she claims that she was working, she had two jobs, one at the Globe Canteen which she had to leave because of her alcoholism and secondly she had a job as a maid but she had to give it up because of physical abuse by the deceased which rendered – which prevented her from returning to work. In light of that evidence of her psychiatric history that she had been in and out of the hospital, she has attempted suicide on several occasions and subject to depression, and in light of her claims that she had been subjected to physical and sexual abuse by her husband, the deceased, I will have to, reluctantly, in the circumstances of his case recognise what we no doubt-what is now called post traumatic stress syndrome where it is a pattern of physical and sexual abuse that leads a party to kill and abusive spouse."

[6] In mitigation, Mr Milton Pierce of Counsel for the accused gave fuller details of the physical and sexual abuse to which the accused was subjected by her father. He also asserted that the appellant had obtained a protection order against her husband and that she had commenced divorce proceedings, but that the former was never enforced and she was pressured into withdrawing the divorce proceedings.

[7] In response to the Trial Judge's request for corroboration of the accused's complaints of sexual abuse, the matter was adjourned for Dr Bryce to attend to give evidence. Dr Bryce informed the Court that the appellant's sister had confirmed to her the appellant's history of sexual abuse by her father at a very early age. Dr Bryce also gave her professional opinion that revulsion to sex was consistent with the sexual abuse that the appellant and her sister had explained to her. She also confirmed the appellant and her same sister as the source of the statement in her report that four of her female siblings had committed suicide as a result of [4] exposure to similar abuse at the hands of their father.

[8] The prosecution put a number of relevant questions and suggestions to Dr Bryce. In response to the question what kind of therapy or what she would recommend to the Court as a method of treatment of the appellant, she said that "persons like Mrs Bistol are more likely to harm themselves than others. That is well known. The threat to other persons comes with provocation and one of the major problems that we have throughout the world where victims of domestic violence tend not to find ready solace or solutions to the victimizations. Therefore at this time I more worry about her threat to herself than to other people in society." She accepted that "prolonged medical supervision, psychiatric supervision" would assist the appellant, but at the same time she did not think that institutionalisation would help at all. In answer to the suggestion that the appellant "could injure the child, the very child that she wants to protect," Dr Bryce testified:

"I have no reason at this point in time to have a fear for that, but, as you said, we have no guarantees in life."

[9] It was clearly a difficult decision for the Trial Judge to strike a balance between the above two recommendations of Dr Bryce - one in favour of prolonged consistent psychiatric supervision and the other against what she called institutionalisation. The Trial Judge seems to have given rather more weight to the former.

[10] We must also advert, as did Counsel for the respondent, to the appellant's failure to accept the advice of Dr Bryce as stated in page 3 of the latter's report dated 1999-11-18:

"Of note is that numerous attempts were made by me to get Mrs Bristol to attend counselling sessions but these all proved futile and Mrs Bristol remained in the abusive situation despite advice to the contrary."

[11] Immediately before passing sentence, the Trial Judge made the following statement:-

"I have to think of the man out there, you know, who might be [5] trapped in with Mrs Bistol and I have to bear in mind that in this case, you know, the man, her husband, I think he was asleep in his bed and she virtually hit him in his sleep and then sat there drinking until morning."

[12] This statement suggests that the Trial Judge had drawn the inference that the appellant was cool calm and collected when she inflicted the fatal blow or blows. It seems to us that such a conclusion is not in keeping with the appellant's statement to the police, which was the only source before the Court of the events leading to Mr Bristol's death.

[13] The Judge states that, after administering the fatal blows, the appellant sat drinking until morning, but this does not accord with the facts as related to the Court. The appellant said that, after her husband raped her, she started to drink the rest of the rum and she went to the front house to smoke. Even after she brought the rammer into her bedroom, she "sat down on the bed just thinking". After administering the fatal blows, the appellant washed out the towel in which she had wrapped the rammer and walked down the road and threw the towel in the bush. She came back home and was pacing in the house all night. She could not sleep because she thought her husband was unconscious and he would wake up and beat her up. Finally, after her son's baby woke up and was fed, "I just lie down in the dark. I probably drop off to sleep and I jump up about six o'clock."

[14] Difficult though the exercise may be, it is necessary to make an assessment of the sequence of events on that fateful night to determine the appellant's state of mind and her feelings and attitude before, during and after her attack upon her husband. In spite of her state of mind and of intoxication, she seems to have agonised over the utterly callous and brutal treatment that she received from her husband on the very first night after she left hospital and the realisation that she had returned to the very same sexual abuse to which she had been subjected before. What she did [6] to her husband seems to have been more the result of utter desperation than of anything approaching calm deliberation.

[15] In all the circumstances, we are of opinion that a sentence of 10 years' imprisonment is excessive and we would reduce it to 6 years to run from the 6th October 1999. [7]

JUSTICE OF APPEAL

JUSTICE OF APPEAL JUSTICE OF APPEAL