



CARIBBEAN COURT OF JUSTICE

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**CCJ ALLOWS APPEAL OF CALVIN RAMCHARRAN, FINDS RAPE
SENTENCE EXCESSIVE**

Port of Spain, Trinidad and Tobago. In a judgment released by the Caribbean Court of Justice (CCJ) in its Appellate Jurisdiction, the Court allowed the appeal of Calvin Ramcharran, in the Guyanese matter of *Calvin Ramcharran v the Director of Public Prosecutions [2022] CCJ 4 AJ (GY)*. The Court found his sentence for rape to be excessive and imposed a new sentence of twelve (12) years imprisonment. The appeal was heard on 12 October 2021.

Calvin Ramcharran ('Ramcharran') was tried before a jury and convicted of rape and assault causing actual bodily harm. On the day of the verdict, he was sentenced to twenty-three (23) years imprisonment for the offence of rape and three (3) years imprisonment for the offence of assault occasioning actual bodily harm, with the sentences to run concurrently. The Court of Appeal of Guyana affirmed the decision of the trial judge. Ramcharran appealed to the CCJ. The appeal was against the sentence alone, the CCJ having refused him permission to appeal against his convictions.

The CCJ majority (Justices Anderson, Barrow and Burgess) found that the sentence for rape was manifestly excessive. They considered that the trial judge failed to hold a separate sentencing hearing, take a victim impact statement, obtain mental health or psychological assessments, obtain a social report and give reasons for and indicate the process used to arrive at the sentence. While the trial judge did hear a plea in mitigation and did not impose the maximum sentence of life imprisonment, the judge gave no reasons for the sentence imposed. As a result, the appellate courts could only infer what the trial judge considered in arriving at the sentence. They found that the Court of Appeal made an error in reviewing the trial judge's sentence. The Court of Appeal failed to follow the comprehensive guidance for trial judges in respect of sentencing in rape cases, provided in the earlier CCJ decision in *Pompey v The Director of Public Prosecutions*.

The CCJ majority considered the range of starting sentences for rape used in other cases, as well as the aggravating and mitigating factors in this case. They found that a

sentence of twelve (12) years imprisonment for rape was appropriate. For assault causing actual bodily harm, the majority found that because the three (3) year sentence of imprisonment for assault is to be served concurrently with the rape sentence, it may be left to stand for its demonstrative and deterrent effect.

The CCJ minority (Justices Rajnauth-Lee and Jamadar) agreed that the original sentence for rape was excessive and needed to be reviewed. However, they would have instead imposed a sentence of sixteen (16) years imprisonment for rape. They provided guidance to judges on the general approaches that should be adopted at a sentencing hearing. The CCJ majority agreed with the guidance provided.

The CCJ allowed Ramcharran's appeal and sentenced him to twelve (12) years imprisonment for rape. The sentence for assault causing actual bodily harm of three (3) years imprisonment was affirmed. Both sentences are to be served concurrently.

The Court was presided over by the Honourable Justices Anderson, Rajnauth-Lee, Barrow, Burgess and Jamadar. The Appellant was represented Mr CA Nigel Huges, Mr Roland Daniels and Ms Savannah Barnwell and the Respondent by Mrs Shalimar Ali-Hack, SC, Mrs Diana Kaulesar-O'Brien, Mrs Teshana Lake and Ms Natasha Backer.

The full judgment of the Court is available on the CCJ's website: www.ccj.org

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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