APPEAL COURT, HIGH COURT OF JUSTICIARY

[2019] HCJAC 90
HCA/2019/309/XC

Lord Brodie
Lord Drummond Young
Lord Turnbull

OPINION OF THE COURT

delivered by LORD BRODIE
in

APPEAL AGAINST SENTENCE

by

TASMIN GLASS

Appellant

Against

HER MAJESTY'S ADVOCATE

Respondent

Appellant: Dean of Faculty, Niven-Smith; Faculty Services Limited
Respondent: Prentice QC (sol adv) AD; the Crown Agent

15 November 2019

Introduction

[1] The appellant is Tasmin Glass. She was born in March 1999. On 1 April 2019 she went to trial along with two co-accused, Steven Alexander Dickie ("Dickie") and Callum Davidson ("Davidson"), on an indictment containing seven charges, charge (007) being a charge of murder. In the course of the trial the advocate depute withdrew the libel

in respect of charges (001) to (006). On 3 May 2019 the appellant was unanimously convicted of culpable homicide. In his charge to the jury, in accordance with his usual practice, the trial judge gave the direction that in the event of the appellant being convicted of culpable homicide, the person speaking on behalf of the jury should make that clear when asked by the clerk of court to give the jury's verdict (as opposed to substituting the word "murder" with the word "kill", as a jury may be asked to do). Therefore, while charge (007) as directed against the appellant remained one of murder the verdict in respect of that charge was of culpable homicide on the narrative contained in the charge, subject to an amendment made on the application of the Crown and a deletion by the jury. That narrative was in the following terms:

> "(007) between 6 June 2018 and 7 June 2018, both dates inclusive, at The Peter Pan Childrens Play Park and Loch of Kinnordy Nature Reserve Car Park, both Kirriemuir, Angus you STEVEN ALEXANDER DICKIE, CALLUM DAVIDSON AND TASMIN GLASS did assault Steven Andrew Donaldson, born 23 July 1990 and did arrange to meet him at said Peter Pan play park with the intention of assaulting him and once there did repeatedly strike him on the head and body with unknown instruments …, and thereafter did transport him to the aforesaid Loch of Kinnordy Nature Reserve Car Park, where you did repeatedly strike him on the head and body with a knife and a baseball bat or similar instruments and repeatedly strike him on the head and neck with an unknown heavy, bladed instrument and did set fire to … his motor vehicle, registered number S73 VED.... "

[2] Dickie and Davidson were both convicted, by majority verdicts, of murder, on the same narrative.

[3] The trial judge adjourned the diet of sentence in respect of the appellant and her co-accused for the purpose of obtaining criminal justice social work reports. At the adjourned diet on 30 May 2019 the trial judge sentenced the appellant to a term of detention for 10 years. He imposed sentences of imprisonment for life on Dickie and on Davidson. He made the punishment part 23 years for Dickie and 24 years for Davidson.

[4] The appellant has appealed against sentence. It is her contention that, in the circumstances, her sentence was excessive.

Evidence at the trial

[5] The trial judge reports that the evidence led at trial was to the following effect.

Background

[6] The deceased, who was 27 years of age at the time of his death, worked in the offshore oil and gas industry, both in the North Sea and in other parts of the world. He was successful in his career and earned a good salary. He owned a number of properties, which he rented out, and several vehicles. The deceased and the appellant had been in a sexual relationship since about the autumn of 2017, but by June 2018 the relationship had become strained. Unknown to the deceased, the appellant had begun a sexual relationship with Dickie, whom she knew from the village of Kirriemuir. The deceased had been pressing the appellant for repayment of money she owed him from an insurance settlement for a car (a Volkswagen Scirocco) that she had written off in an accident. The deceased had previously bought the car for the appellant as a gift. There was evidence that the appellant was in financial difficulties at the time of the murder. Unknown to her parents, she had borrowed money from her grandparents. She had fallen behind with her rent for a flat in Glasgow. She had also borrowed money from her employer. The appellant was pregnant with the deceased's child, although he was unaware of this.

The murder

The early part of the evening of 6 June 2018

[7] During the early part of the evening of 6 June 2018 the three accused and Davidson's partner, Claire Ogston, went swimming at the river in Cortachy, a short distance outside Kirriemuir. In the course of the evening the appellant received a series of text messages from the deceased in which he asked her about the future of their relationship and said that he wanted to see her that night. The evidence showed that the appellant became unhappy and, at a later stage, angry about the fact that the deceased was persistently contacting her. When Dickie became aware that the deceased was in touch with the appellant, he reacted jealously. This occurred when the three accused and Ogston were at the car park at the Peter Pan play park in Kirriemuir later in the evening, following the swimming trip.

[8] There was evidence that Davidson made a phone call to an associate, Colin Chalmers, in which he asked for assistance in the form of "back up" because the deceased was coming from Arbroath to Kirriemuir that night with "a squad of boys". In one of her statements to the police the appellant said that Davidson had told Chalmers that they were going to give the deceased a "hiding".

[9] Later that evening the appellant drove Davidson and Ogston in the appellant's car to the home of Davidson's cousin, Michael Davidson, in Kirriemuir. Whilst there, Davidson collected a baseball bat. Davidson said in his evidence that it was Dickie who had urged him to obtain the bat. Immediately after the baseball bat had been uplifted from Michael Davidson's house, the appellant drove Davidson and Ogston to 19 Marywell Brae, Kirriemuir where Davidson and Ogston lived. The baseball bat was in the car, as all the car's occupants must have been aware.

Events later in the evening of 6 June 2018

[10] At Marywell Brae Davidson, the appellant and Ogston were soon joined by Dickie; he had travelled there on his motor cycle from the Peter Pan play park. The appellant told the others that she had arranged to meet the deceased at the Peter Pan play park later that night. Ogston, whose evidence was an important strand in the prosecution case, said that the appellant looked at Dickie and asked if he would be able to deal with it. A look was then exchanged between Dickie and Davidson; Ogston described this as a "would you come with me sort of look".

[11] Shortly after this, the appellant, Davidson and Dickie left the house together in the appellant's car. The appellant was driving. The baseball bat was in the car, as each of them must have been fully aware. There was also evidence from Ogston that Dickie took a knife with him from the house. They drove to a street in Kirriemuir where a Ford Ranger truck belonging to Davidson was parked. Davidson and Dickie alighted from the appellant's car and went to the truck. It is reasonable to infer that the purpose of their doing so was to collect another weapon to be used in assaulting the deceased.

[12] A short time later, the appellant dropped off Davidson and Dickie near to a path that led up a hill to the Peter Pan play park. The appellant then drove to the car park at the Peter Pan play park where she met the deceased, as had previously been arranged between them. He was in his white BMW car. At about 23.05 the appellant telephoned Dickie, it being a reasonable inference that she did so as to let him know that she was in the car park with the deceased. A short time thereafter Dickie and Davidson arrived on foot and attacked the deceased in his car. Davidson admitted punching the deceased at this point and it is probable that either he or Dickie stabbed the deceased. They managed to overpower him and forced him into the back seat of his car. This was the first stage of the murderous attack

on the deceased. At this point the appellant drove home to her parents' house in Kirriemuir, arriving there at about 23.10.

[13] Davidson and Dickie then drove the deceased in his car to the nature reserve car park at Loch of Kinnordy, on the other side of Kirriemuir. There they jointly attacked the deceased with the baseball bat and with other weapons.

The injuries to the deceased

[14] The pathologists found a substantial number of stabbing and incised wounds on the deceased's head and neck. There were at least six chop-like incised wounds over the back of the head and the rear of the upper neck. These had divided the cervical spine and the spinal cord in two places. The injuries were likely to have been inflicted by a heavy long-bladed, keen-edged instrument of sufficient rigidity to cut bone easily. It is reasonable to infer that these injuries were inflicted by the weapon that the two men had collected from the Ford Ranger. There was also a laceration on the back of the deceased's head. The left side of the deceased's jaw was fractured. The expert evidence was that these injuries were the result of blunt force trauma.

[15] Neuropathological examination of the brain identified bleeding over the surface of the brain and focal areas of bleeding within an area of the brain towards the back of the head. These injuries were in keeping with diffuse traumatic brain injury. There were deeply incised wounds to each hand; these were defensive injuries.

[16] There were eight stab wounds to the torso, two of which had penetrated the chest cavity and caused minor injuries to the left lung. One of these had penetrated the abdominal cavity, but had not caused any internal injury. There were a further six stab wounds to the left thigh.

[17] Death was attributed to sharp force injuries to the neck. The sharp force injuries associated with transection of the spinal cord were judged to have been immediately fatal.

[18] A trail of blood found in the nature reserve car park suggested that the deceased had at one stage attempted to escape from his two assailants. Dickie and Davidson caught up with him at the entrance to the car park where blood and human tissue were later found. They violently assaulted him there and probably rendered him unconscious. A drag mark on the car park surface indicated that Davidson and Dickie carried the deceased back to his car where he was killed. At some point his car was set alight. There was evidence of an acceleration mark, which could have been caused by Dickie's motor cycle, having been overlaid on top of the drag mark. It would have been open to the jury to infer from this mark that Dickie returned to the scene at a later stage that evening.

The aftermath of the murderous attacks

[19] Ogston, who at the time of the trial remained in a close relationship with Davidson, gave evidence that on his return to the house at Marywell Brae Dickie had a shower. She noticed that he was a very grey colour. He was jumpy and on edge. He admitted to Ogston that he had hit the deceased with the baseball bat in an argument that had got out of hand. The bat had broken into pieces. According to Ogston, Dickie asked Davidson to go out again to find the broken bits of the bat. Davidson duly did so, but he did not return to the house with anything. Ogston said that she saw Dickie remove a small black-handled vegetable knife from the jacket he and been wearing. The knife came from the house at Marywell Brae. Ogston noticed that its blade was bent; she said that it had not previously been damaged in this way. The witness said that Davidson had a small scratch on his nose; this had not been there before he and the others had gone to meet the deceased. When he

had returned later that night, Davidson had appeared worried. She saw him washing his hands in the sink. The following morning Ogston noticed that the two men had washed their clothes in the washing machine.

[20] The Crown led CCTV evidence showing two men in the car park of the Kirriemuir Health Centre at a time which was consistent with them walking from the nature reserve car park back to the house at Marywell Brae, having carried out the murderous attack on the deceased.

The evidence of the three accused

[21] Dickie's position when he gave evidence at the trial was that he played no part in any attack on the deceased. Whilst he had gone with Davidson to the Peter Pan play park, it was Davidson who had run ahead, got into the deceased's BMW car through the driver's window and then departed in the BMW, which was apparently being driven by the deceased, although Dickie could not actually see who was driving. There was no plan to kill the deceased. Davidson was simply going to give him a roughing up and that was to be the end of it; the idea was simply to make the deceased back off. Dickie claimed that he had not gone to the nature reserve car park at all. He had given his mobile phone to Davidson when the appellant phoned and asked to speak to Davidson as they were making their way up the hill towards the Peter Pan play park. Dickie insisted that he had not played any part in the murderous assault on the deceased or that he had been, to any extent, party to a concerted plan to murder him.

[22] In his evidence Davidson accepted that he had punched the deceased by reaching into the BMW at the Peter Pan play park, but he claimed that this was all that he had done. It was, according to Davidson, Dickie who had brought the baseball bat with him. Dickie

had violently attacked the deceased in his car with a knife. He then wrestled him into the back of the car. Davidson, at the urging of Dickie, then drove the BMW to the nature reserve car park, sitting in the driver's seat in a hunched-forward manner. During the drive Dickie punched or stabbed the deceased. When they got to the car park Davidson played no part in any further assault on the deceased. He made his way promptly from the scene.

[23] So far as the evidence of the appellant was concerned, she said that she was unaware at all times that either of her co-accused had a weapon of any sort or that there was any reason to suppose that either of them might use violence towards the deceased. She explained that she had not taken seriously what she accepted that she heard Davidson say to Colin Chalmers in the phone call. In the house at 19 Marywell Brae, the appellant asked Dickie if he would be able to speak to the deceased in the event that she and the deceased started to argue. That is as far as any discussion or conversation she had with Dickie had extended. She did not, she said, suggest or encourage or imply to Dickie, far less instigate him, to use violence against the deceased. The appellant went on to say that in fact she did not meet the deceased anywhere on the night of 6 June; in particular at the Peter Pan play park car park.

[24] The jury clearly did not accept the evidence of any of the accused in so far as it was material to exonerate them from, in the case of Davidson and Dickie, the murder of the deceased, and, in the case of the appellant, his culpable homicide.

The trial judge's approach to sentencing the appellant

[25] The trial judge reports that the appellant's counsel submitted in mitigation that she was unlikely to reoffend. She came from a good background. She had support from her family. She now had a young child. She was only 20 years of age.

[26] For the reasons set out in his sentencing statement, the trial judge explains that he took the view that the appellant had been convicted of a serious offence of culpable homicide. In assessing her level of culpability, he took account of a number of factors.

[27] First, it was clear from the evidence that it was the appellant who had instigated the attack on the deceased. By June of 2018 she had tired of her relationship with him. She had become sexually involved with Dickie; she owed the deceased money; and she was stringing him along. It no longer suited the appellant to be the deceased's partner.

[28] Secondly, there was clear evidence of planning and deliberation on the appellant's part. The evidence showed that she had resolved to enlist her two co-accused in a plan to attack the deceased.

[29] Thirdly, the appellant knew that Dickie and Davidson had obtained weapons in the course of the evening; she drove them to an area near to the Peter Pan play park where she had arranged to meet the deceased. She had led the deceased to believe that she was meeting him in order to discuss the future of their relationship, but in truth the appellant's plan was for her two co-accused to set upon him in order that she could get him out of her life. The appellant must have anticipated that the weapons would be used against the deceased. It was through her duplicity that Dickie and Davidson were able to take the deceased by surprise.

[30] The appellant then drove home and carried on as normal in front of her parents. In the ensuing days she maintained that front.

[31] The trial judge concluded that without the appellant's influence the fatal attack on the deceased would not have occurred. The appellant had demonstrated that she was manipulative and devious when it came to advancing her own interests.

[32] The trial judge reports that he took account of the fact that the appellant was 19 years of age at the material time and of her lack of previous record. He took account also of the fact that she had a young child, who was being cared for by the appellant's parents. The trial judge backdated the sentence to 3 May 2019 when he had remanded the appellant in custody following her conviction. In selecting the sentence, he took account of the period of some four months during which the appellant had spent on remand in 2018.

Submissions for the appellant

[33] At the outset of his submissions in support of the grounds of appeal, as expanded upon in the case and argument, the Dean of Faculty explained that his submissions fell into two stages or chapters. The first stage related to the trial judge's erroneous assertion, made at para [55] of his report, that the appellant must have foreseen that the deceased would be assaulted with bladed weapons. The second stage related to the appellant's personal circumstances as pointing to the sentence (which having regard to the period during which the appellant had been held on remand was the equivalent to a period closer to 11 years than 10) being excessive.

[34] In developing the first stage of submissions the Dean pointed to the trial judge's repeated reference to "weapons" (in the plural) in the course of his report with the associated assertion that the appellant must have been aware that her co-accused had armed themselves with weapons in order to attack the deceased. That the deceased had been assaulted with at least three weapons: a baseball bat, a knife and a cleaver or machete was evident from the pathology evidence and it might be inferred that the appellant knew about the baseball bat, but, so the Dean submitted, it simply could not be inferred that the appellant had been aware of Dickie and Davidson having bladed weapons.

[35] On behalf of the appellant, the Dean of Faculty accepted the jury's verdict. He did not dispute that there had been sufficient evidence to allow them to conclude that it was the appellant who had instigated the plan to attack the deceased. To that extent she knew what was going to happen. She was aware that her co-accused had collected a baseball bat. However, while it might be the case that Dickie and Davidson collected a cleaver or machete from the Ford Ranger, there had been no evidence to allow the inference that the appellant was aware of such a weapon having been brought into the car she was driving. To say that she would have seen that weapon was simply speculation. The attack on the deceased had been in two stages: first, at the Peter Pan play park, second, at the nature reserve car park. The appellant had not taken part in either stage of the attack. She had not been present at the second stage when the fatal blows were inflicted. The extent of her liability depended on concert; as the trial judge had directed at page 73 of his charge. The Dean confirmed that he had no objection to that direction. There was no appeal against conviction. That the jury had not deleted the references in the charge to "a knife" and "an unknown heavy, bladed instrument" presented a difficulty, but it was the Dean's submission that, given that the appellant was the instigator of the attack, it would have been perverse for the jury to convict of culpable homicide and not murder if they had indeed accepted that the appellant knew that her co-accused intended to use bladed weapons.

[36] The second stage of the Dean's submissions related to the personal circumstances of the appellant and her behaviour immediately after the offence. That behaviour had been described as "chilling" in its calm by the trial judge but that description would only be warranted if it is assumed that the appellant was aware of what sort of attack was likely to be carried out on the deceased at the nature reserve car park at Loch of Kinnordy. The appellant had been only 19 years of age at the time of the offence. She was not yet

independent of her parents, of whom she was the only child, and quite immature, certainly in comparison with the deceased or with Dickie. She had done well at school. She was musically talented and had been pursuing a career in music. She sang with a band. She came from a good family with pro-social attitudes. Her parents both worked. They did not condone criminal behaviour. The appellant had no previous convictions. The author of the criminal justice social work report had concluded that she was unlikely to reoffend. Given that she had been remanded for some four months in custody prior to release before the trial, a sentence of 10 years' detention was the equivalent of nearly 11 years' custody. This was excessive when proper regard was had to the degree of the appellant's culpability and her personal circumstances.

Decision

[37] We have not been persuaded that the trial judge's sentence was excessive when regard is had to the degree of the appellant's culpability for the death of the deceased and her personal circumstances.

[38] When considering culpability it is perhaps worth stressing that this is an appeal which is only directed against sentence; there is no appeal against conviction, the appellant, as the Dean of Faculty confirmed, accepts the verdict of the jury, that being that she is guilty of an assault on and the killing of the deceased by striking him with a knife, a baseball bat and an unknown heavy bladed instrument. Accordingly, it is not argued that the jury were not entitled to convict the appellant, on the basis of concert, of the assault on and killing of the deceased. Rather, it is argued that, notwithstanding the terms of their verdict, they were not entitled to convict of the assault on and killing of the deceased by means of the use of a knife and an unknown heavy bladed instrument and, indeed had not done so.

[39] Although no reference was made to this by the Dean of Faculty in the course of his submission, a very similar argument to that made by him at the first stage of these submissions was advanced by senior counsel on behalf of the appellant at the close of the Crown evidence on 29 April 2019. This was in support of his submission that there was no case to answer in terms of section 97A of the Criminal Procedure (Scotland) Act 1995. Counsel is recorded in the minute as submitting that "the concert aspect of the charge effectively ended at the Peter Pan play park". There was, he submitted, no evidence of a large, heavy bladed instrument being part of a common plan and a distinction should be drawn between a weapon such as a machete, axe or cleaver on the one hand and a kitchen knife or baseball bat on the other. We would understand from the minute that counsel was accordingly arguing that the appellant could only be convicted of such part of the assault as took place at the Peter Pan play park and certainly not of murder. However, counsel is recorded as conceding that he could not argue that a baseball bat was not a lethal weapon and that he intended to develop the line, as a fall-back position, that even if the jury convicted the first and/or second accused of murder, they should go no further than to convict the appellant of culpable homicide. In responding, the advocate depute submitted, under reference to the adminicles of evidence on which she relied and the decision in *McKinnon* v *HM Advocate* 2003 JC 29, that the appellant had been party to a plan that had the potential to be murderous from the start and which was in any event wickedly reckless. The trial judge repelled the submission of no case to answer.

[40] The case against the appellant therefore went to the jury as a charge of murder. The trial judge gave the following direction at page 73 of his charge:

> "As to the case against [the appellant], this rests entirely on the basis of concert. There is no evidence that she was personally involved in assaulting the deceased. It follows that, in order to convict her of murder, you would have to be satisfied that

> she actively associated herself with a common plan, the foreseeable purpose of which was, or included, the taking of human life, or carried the obvious risk that human life would be taken, and the killing was carried out by one or both of the co-accused. If you are not satisfied that [the appellant] associated herself with such a common purpose but that she did actively participate in a less serious common criminal purpose in the course of which the deceased died then, depending on your view of the evidence, you would be entitled to convict her on an art and part basis of the less serious offence of culpable homicide. "

The Dean of Faculty accepted that that was an entirely correct direction. That allowed him to argue that because they convicted of culpable homicide the jury must have rejected the proposition that the appellant was party to a common plan, the foreseeable purpose of which was, or included, the taking of human life, or carried the obvious risk that human life would be taken and, rather, she participated in a less serious common criminal purpose in the course of which the deceased died. That less serious common criminal purpose, the Dean of Faculty submitted, must be taken to be an assault on the deceased but not an assault with bladed weapons. Therefore the trial judge, by his reference to "weapons" in the plural, had over-estimated the extent of the appellant's culpability.

[41] There appear to us to be a number of difficulties with the Dean's analysis and the conclusion he would seek to draw from it. First is the terms of the jury's verdict which was of assault and homicide by striking the deceased with a knife, a baseball bat and an unknown heavy bladed instrument. The Dean asserted that there was no basis in the evidence for the inference that the appellant was aware of her co-accused having a knife or knives or a heavy bladed instrument but that does not appear to have been the position of the advocate depute when responding to the no case to answer submission, the appellant having been in the company of the co-accused when they must have collected their weapons. The second difficulty for the Dean's argument, as it appears to us, arises from his concession that the appellant was aware that her co-accused had collected a baseball bat and

that it could be inferred that their purpose in doing so was to use it in the assault on the deceased, as they did. Senior counsel representing the appellant at trial had accepted that he could not argue that a baseball bat was not a lethal weapon. We did not understand the Dean of Faculty to take a different position. Thus, irrespective of what view the jury took about the appellant's knowledge of the possession by her co-accused of a knife or knives or a heavy bladed instrument and the consequence of that for what sort of assault on the deceased was foreseeable, the jury must have arrived at their verdict on the basis that the appellant was party to a plan which involved the assault on the deceased with a lethal (in the sense of potentially lethal) weapon. Once it is foreseeable to a participant in a plan to assault a victim that a particular lethal weapon will be used, it does not appear to us to be material, for the purposes of assessing that participant's culpability, that in fact it was a different lethal weapon (of which the participant may have been unaware) which was used by someone else to kill the victim (see *Black* v *HM Advocate* 2006 SCCR 103). It would therefore have been open to the jury to have convicted the appellant of murder even if they were not satisfied that she was aware that her co-accused were in possession of the knife or knives or the heavy bladed instrument. The jury did not convict the appellant of murder but that does not necessarily mean that they considered that the appellant was unaware that her co-accused might use a knife or a heavy bladed instrument any more than it means that they considered that the appellant was unaware that her co-accused had equipped themselves with a baseball bat in order to use it to attack the deceased. Precisely why the jury did not convict the appellant of murder is not of course known but there are a number of possible reasons among which is that they were not satisfied, despite all that should have been foreseeable, that the appellant had the necessary intention to kill or wicked recklessness as to the death of the deceased. After all, not every actor who kills his victim in the course of an

assault with a bladed weapon is convicted of murder. Moreover, the jury, reasonably enough, might have thought that culpable as the appellant was, her culpability fell to be distinguished from the clearly much greater culpability of Dickie and Davidson who had actually inflicted the extreme violence on the deceased in a persistent attack which had only ended with the deceased's death. They may have taken the view that to have convicted all three of murder would have been to lose or blur such a distinction.

[42] Had the Dean of Faculty persuaded us that the trial judge was in error in describing the appellant as having been responsible, on an art and part basis, for the assault on the deceased using weapons in the plural as opposed to a weapon (the baseball bat) in the singular, which he did not, we would have to have consider whether that made any material difference to the degree of the appellant's culpability for sentencing purposes. We would have concluded that it did not. The appellant was not found guilty of murder. That was significant. She was however found guilty of culpable homicide and there is no challenge to that verdict. That also was significant. The range of degrees of culpability which may be reflected by a verdict of culpable homicide is admittedly very wide but the degree of culpability for a homicide resulting from a persistent attack with a club such as a baseball bat is not very different from the degree of culpability for a homicide resulting from a persistent attack with a bladed weapon.

[43] The trial judge explains in his report that whatever the exact explanation for the jury's verdict, the evidence left no room for doubt that the appellant was intensely involved in the planning and facilitating of the brutal killing of her partner. She played a pivotal role in the killing. She was the prime mover behind the assaults on the deceased. Without her active encouragement and participation, the attacks could not and would not have occurred. In these circumstances, the trial judge took the view that the appellant had been convicted of

a serious offence of culpable homicide and that she had to be sentenced accordingly, notwithstanding her young age. He had regard to the various aspects of the appellant's circumstances which were mentioned in the grounds of appeal, in particular her young age, her lack of previous convictions, and the fact that she had a young child. Responding to the reference in the Note of Appeal to the naivety and immaturity of the appellant, the trial judge observes in his report that there had been ample evidence at trial that the appellant had had sufficient presence of mind to carry on her life as normal in the aftermath of the deceased's death. Although young, the appellant had demonstrated that she had a manipulative and devious personality. He further explains that the sentence took account of the period which the appellant spent on remand between June and October 2018.

[44] We see no reason to disagree with the trial judge's assessment that the appellant had been convicted of a serious offence, with the aggravating features bearing on culpability which he summarised in his sentencing statement and which we have recorded in paragraphs [27] to [31] above. We agree with the trial judge that the appellant had to be sentenced accordingly, notwithstanding her young age. That being so we cannot regard the sentence imposed, taking it to be the equivalent of something not far short of 11 years detention, as excessive. The appellant comes from a good background. She has a supportive family. She has no previous convictions. She has a talent for music. She is the mother of a young child. She is still only 20 years of age. Nevertheless, she has been convicted of what the trial judge was fully entitled to describe as a serious offence of culpable homicide. Her sentence must reflect that.

[45] The appeal is refused.