

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL JCPC2025/0083
ON APPEAL FROM THE COURT OF APPEAL OF
THE REPUBLIC OF TRINIDAD AND TOBAGO
BETWEEN

F.R.

(Anonymized pursuant to the order of the court dated 26th October 2022)

Appellant

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Respondent

AGREED PRECIS

1. The Appellant is said to have been the victim of rape when aged 16. Her alleged attacker ("the accused") was charged with rape in October 2017.
2. In November 2021 the Appellant brought this claim alleging that her rights under sections 4(a) and 4(b) of the Constitution have been, are being and are likely to be infringed by the excessive delay in bringing the criminal proceedings against the accused to an end.
3. The trial judge found that the State's failure expeditiously to conclude the trial of the accused caused serious psychological prejudice to the Appellant and amounted to a breach of the Appellant's right to protection of the law as a child victim of crime, ordered the State to allocate sufficient resources to ensure that the trial was completed expeditiously, and awarded nominal damages of \$60,000.
4. On appeal, the Court of Appeal set aside the orders of the judge, finding that the Appellant's rights had not been breached and that the judge's mandatory order infringed the

separation of powers. The Appellant now appeals to the Judicial Committee by leave of the Court of Appeal.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL JCPC2025/0083
ON APPEAL FROM THE COURT OF APPEAL OF
THE REPUBLIC OF TRINIDAD AND TOBAGO

CIVIL APPEAL NO P-307 OF 2023

BETWEEN

F.R.

(Anonymized pursuant to the order of the court dated 26th October 2022)

Appellant

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Respondent

AGREED STATEMENT OF FACTS AND ISSUES

Reference to the Reproduced Record of Proceedings is in the format ***[Page Number]***

STATEMENT OF FACTS

1. The Appellant claims that she was raped on 31st March 2017 at the age of 16 and she later bore her attacker's child. She attempted to commit suicide on several occasions after the attack **[21]**. She started seeing a therapist at the Rape Crisis Centre and was also seen at the North Central Regional Health Authority and the Mount Hope Women's Hospital. She was diagnosed with Posttraumatic Stress Disorder and Chronic Depression **[24]**.
2. The Appellant's alleged attacker ("the accused") was charged with the offence of rape on 15th October 2017 **[522, para 2]**. At the time of the filing of these constitutional proceedings on 29th November 2021, the preliminary inquiry had been ongoing for some 4 years and there had been 23 hearings at the Magistrates' Court **[70]**.

3. On 20th May 2022, while these constitutional proceedings were still pending in the High Court, the accused was committed to stand trial at the High Court **[244]**. To date, more than four years later, no indictment has yet been filed by the Director of Public Prosecutions, as far as the Appellant is aware. As at 31st December 2021, there were 162 pending indictments for the offence of rape and there is likely to be significant delay (in excess of 10 years) between the filing of an indictment and the conclusion of the trial at the High Court **[138]**.
4. Expert evidence was adduced by the Appellant **[229-241]**. The expert concluded that the Appellant is suffering psychological harm as a result of the delay in concluding the criminal proceedings. The expert found that the ongoing court proceedings were adding to her Posttraumatic Stress Disorder symptoms by re-traumatizing her in court and eliciting unwanted images and further, that attacks on the Appellant's character in court were causing feelings of hopelessness, helplessness and acute fear **[237]**.
5. The evidence of the Appellant is that, prior to the attack, she never suffered from any mental health issues **[180, para 10]**. Whenever the criminal matter comes up for hearing the Appellant cries both before and after court. Weeks before the court date, the Appellant gets depressed and is unable to sleep **[186, para 28]**.
6. The Appellant says that dealing with the court is unbearable and she does not want to see the accused anymore **[186, para 31]**. She feels like she is trapped and there is no way out **[188, para 37]**
7. There was no cross examination of the Appellant or her expert.

HISTORY OF THE PROCEEDINGS

The High Court

8. On 29th November 2021, the constitutional claim was commenced by Fixed Date Claim Form. The Appellant sought declarations that her rights under section 4(a) and (b) of the Constitution were breached, an order of mandamus compelling the State to expedite the criminal trial and damages **[4]**.
9. Relying on the expert evidence, the trial judge, , found that, while the damage to the Claimant's psychological integrity stemmed from her alleged attack at the age of 16, it had been accentuated by the trauma from the ongoing court proceedings. She found that the Claimant had been subjected to victimisation and re-traumatisation in the proceedings. **[478, paras 51 and 52]**.
10. While the trial judge accepted that the victimisation and re-traumatisation of the Appellant was caused by the State, she declined to grant relief for infringement of section 4(a) of the Constitution on the ground that the legal system as a whole was fair **[481, paras 63 and 64]**. In this regard, the legal system referred to comprised the office of the Director of Public Prosecutions, the Chief Magistrate and the Chief Justice, and that system was fair because the Appellant had the option of making "appeals" to these officers to take action regarding the pace of the preliminary inquiry **[480, paras 60 to 61]**. Additionally, the court found that the Constitutional proceedings themselves provided a mechanism for the Appellant to seek orders compelling the State to take measures to expedite the criminal proceedings **[481, paras 62 to 63]**.
11. However, considering the law relating to children matters specifically (including the Children Act 2012, the Family and Children Division Act 2016 ("FCDA"), and the Children Court Rules,) the trial judge declared that the failure to ensure that children matters are expeditiously concluded constituted a breach of the constitutional rights of child victims of crime to the protection of the law guaranteed by section 4 (b) of the Constitution. She accordingly issued an Order of Mandamus compelling the State to put mechanisms in place and allocate sufficient resources to ensure that the trial of the accused be completed expeditiously and further that the State provide the necessary physiological counselling for the Appellant while the criminal proceedings were pending. **[498]**

12. Finally, the trial judge awarded nominal damages only in the sum of Sixty Thousand Dollars.

Appeal to the Court of Appeal

13. The Respondent filed a notice of appeal on 19th October, 2023 **[506]**.
14. The Appellant cross-appealed on 27th October 2023 against the order granting nominal damages only and in respect of the failure of the Trial Judge to grant reliefs (i) through (vii) of the Fixed Date Claim Form **[563]**;
15. On 23rd February 2024, the appeal was heard by the Court of Appeal before Justice of Appeal Mark Mohammed, Justice of Appeal Peter Rajkumar, Justice of Appeal Maria Wilson **[732]**.
16. On 22nd July 2024, the Court of Appeal allowed the appeal and dismissed the cross-appeal **[812]**. The Court of Appeal found that the trial judge erred in attributing the entire period of delay, cancellations and postponements to the State **[869, para 143]** and overturned the trial judge's factual finding that there was sufficient causal connection between the State's actions and the psychological prejudice suffered by the Appellant **[877, para 164]**. It also disagreed with the trial judge's finding that section 4(b) was breached in the present case. It held that the trial judge had wrongly interpreted the provisions of the FCDA, which was (the Court of Appeal said) "the hook" onto which the trial judge had fastened her finding of a breach **[899, para 222]**.
17. The Court of Appeal otherwise upheld the findings of the trial judge.

Appeal to the Judicial Committee

18. On 24th April 2025, final leave was granted by the Court of Appeal (Justice of Appeal Mark Mohammed, Justice of Appeal Maria Wilson, Justice of Appeal

Aboud) for the Appellant to appeal to the Judicial Committee of the Privy Council against the decision of the Court of Appeal [948].

19. On 19th August 2025, the Appellant filed a notice of appeal to the Judicial Committee of the Privy Council [951].

ISSUES IN THE APPEAL

20. The Appellant appeals on 17 grounds. The main issue in the appeal can be summarised as whether the Court of Appeal erred in declining to make a finding that the Appellant's rights under section 4(a) and 4(b) of the Constitution were infringed by the excessive delay in the conduct of the criminal proceedings and the likely future delay in concluding the criminal proceedings in which she is the victim. This involves considering inter alia:

1. The scope of the rights under section 4(a) and 4(b) of the Constitution in respect of the conduct of criminal proceedings;
2. The correct test in determining whether the purported harm suffered by the Appellant in the present case was caused by the State, and whether that test is met in the present case;
3. Whether the legal system as a whole was fair to the Appellant;
4. Whether there was any irrational, unreasonable, fundamentally unfair or arbitrary exercise of power in the present case; if so, whether this caused real and substantial prejudice to the Appellant and, whether the Appellant obtained a prompt and effective legal remedy;
5. Whether the Constitutional Court is precluded from making orders that have the effect of directing or determining the allocation of State resources and whether in this case, the order of mandamus issued by the trial judge had that effect.

Dated this 21 September 2026

For the Appellant

Douglas Mendes S.C.
Chancery Chambers

Lee Merry S.C.
Allum Chambers

For the Respondent

Robert Strang
Rory Turnbull

3 Hare Court Chambers

ANNEX: CHRONOLOGY

DATE	EVENT	REF
31 st March 2017	Alleged rape committed	[22]
15 th October 2017	Accused charged with rape	[23]
29 th November 2021	Appellant commenced constitutional action against the Respondent at the High Court of Justice before Honourable Madam Justice Avason Quinlan-Williams	[4]
29 th November 2021	Quinlan-Williams J ordered Appellant's name to be anonymized to F.R.	[64]
20 th May 2022	Accused committed to stand trial	[244]
6 th September 2023	Judgment of Quinlan-Williams J	[457] [499] [501]
22 nd January 2024	Quinlan-Williams J assessed the Appellant's costs inclusive of an uplift of seventy-five percent (75%) in the sum of Three Hundred and Seventy-Two Thousand, Five Hundred and Sixty-Two Dollars and Fifty-Six Cents (\$372,562.56)	[504]
19 th October 2025	The Respondent filed a notice of appeal against the order of the learned Judge as well as a notice of application for the order of mandamus and direction for the determination of costs be stayed, and for the appeal to be deemed urgent and expedited.	[506]
27 th October 2023	Appellant filed a counter-notice of appeal against the learned Judge's order granting nominal damages and failure to grant reliefs (i) through (vii) of the Claimants	[563]

	Fixed Date Claim form.	
11 th December 2023	The Respondent's notice of application filed on 19 th October 2025 was determined by the Honourable Justice of Appeal Maria Wilson who ordered the mandamus be stayed and the appeal was deemed urgent and expedited.	[572]
23 rd February 2024	The Appeal heard at the Court of Appeal before Justice of Appeal Mark Mohammed, Justice of Appeal Peter Rajkumar, Justice of Appeal Maria Wilson	[732]
22 nd July 2024	Court of Appeal delivered its final judgment	[812] [917]
12 th December 2024	The Court of Appeal grants conditional leave to Appellant to appeal to the Judicial Committee of the Privy Council	[945]
24 th April 2025	The Court of Appeal grants final appeal for the Appellant to appeal to the Judicial Committee of the Privy Council	[948]
19 th August 2025	Notice of appeal filed at the Judicial Committee of the Privy Council	[951]