

IN THE COURT OF APPEAL OF NEW ZEALAND

No Special Consideration

N/O.

THE QUEEN

v.

NIGEL EDWARD FARMER

597

Coram - McCarthy P.
 Richmond J.
 McMullin J.

Hearing - December 6, 1974

Counsel - J.A. Rabone for Crown
 R.R. Kearney for Appellant

Judgment - December 6, 1974

ORAL JUDGMENT OF THE COURT DELIVERED BY MCCARTHY P.

Appellant, Nigel Edward Farmer, appeals against a sentence of five years' imprisonment imposed upon him by Wilson J. at Gisborne following his conviction by a jury of wounding his wife with intent to cause grievous bodily harm.

It is a sad case. Appellant is a man with a good background of home and school and of military service. He was under considerable strain at the time of his offence and had been so for some time, a strain which was the result of the reserved emotional nature of his wife, which she admits, her involvement with another man, appellant's financial troubles, and his wife's attitude towards his access to a son of whom he was very fond. There is no doubt that he was depressed and worried, though there was no evidence of mental disease. All these matters can be put in the scales on the side of leniency.

But against that there are the facts that the jury held that the grievous assault which was committed was an intentional one. Furthermore it was one which might well have ended in the wife's death. A bad feature of the case

is that the assault was preceded by threats of violence. There was, moreover, preparation for some offence, the husband carrying a knife available for use either for the purpose of assaulting his wife or threatening her. The Judge was entitled to conclude that the knife was carried with such an intention. The attack itself was a sustained one, at least three severe wounds were inflicted, wounds which, as I have said, could have caused death if medical attention was not secured within a reasonable time.

Now the learned Judge was in a far better position than this Court can be to weigh the elements of provocation which the appellant had suffered and also the extent of the intention with which the crime was carried out. The Judge properly saw that he had to consider not only the appellant but the public interest, and to do his best to ensure that standards of self control which preserve human life are promoted. There are far too many cases of husbands assaulting wives with dire results, and cases, too, of wives assaulting husbands. We recognise that the strains of an unhappy matrimonial relationship are varied and inevitably distressing, but Courts cannot accept these as an excuse for unrestrained violence.

The sentence is far from being a light one but we cannot say that it is manifestly excessive.

The appeal is dismissed.

Solicitors for Crown:

Crown Law Office,
Wellington

Solicitors for Appellant:

Woodward, Iles and Co.,
Gishorne