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Top court upholds reformatory training for low-IQ teen rapist

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The Court of Appeal, faced with sentencing an intellectually disabled teen rapist to reformatory training or prison for at least 15 years plus caning, said the former was the "less imperfect and only principled option" under all the circumstances of the case.

In benchmark judgment grounds issued on Monday, the five-judge court, in explaining why it rejected the prosecution's appeal for the lengthy jail term and caning, said the teen's intellectual disability made rehabilitation the dominant sentencing objective.

"There did not appear to be any local case involving facts similar to those in this case," noted Chief Justice Sundaresh Menon on the court's behalf, in finding reformatory training to be the proportionate sentence.

In 2014, the then 14-year-old boy with a low IQ of 61, had raped and sexually assaulted a 16-year-old girl whom he had trailed to a lift lobby three doors away from her flat. He was out on bail for other charges when he committed the offences.

In March last year, the High Court sentenced the teen, who pleaded guilty, to reformatory training, a structured regime for offenders below the age of 21 that can last between 18 months and three years.

The prosecution appealed, maintaining he should be jailed to between 15 and 18 years and receive at least 15 strokes of the cane.

The prosecution team, led by Chief Prosecutor Kow Keng Siong and Deputy Public Prosecutor Sarah Shi, called for the long prison term, arguing that the teen was at high risk of reoffending and the public had to be protected from him.

Assigned defence lawyers, led by Senior Counsel N. Sreenivasan, countered that it was in the teen's as well as society's long-term interests that he be rehabilitated, given that his culpability had been reduced by his intellectual disability.

The court clarified that the appropriate sentencing framework for such offenders involved a two-step approach: first, considering whether rehabilitation remained the dominant sentencing consideration - over another like deterrence - and second, choosing the appropriate sentencing option in the light of the answer to the first question.

The court noted that the dominant sentencing consideration in this case "turned principally on the respondent's state of mind at the time of the offences", which showed that deterrence was of lesser significance.

"Although it also indicated that he posed a high risk of reoffending, his youth and his mental impairment pointed to rehabilitation, and not incapacitation, as the preferred crime prevention objective," said the court, which also included Judges of Appeal Andrew Phang, Judith Prakash, Tay Yong Kwang and Senior Judge Chao Hick Tin.

The teen rapist's intellectual disability impaired his impulse control ability and he had a mental age of between eight and 10 at the time of the offences.

"We did not accept that rehabilitation in a reformatory training centre would not work for the respondent. There is no justification in the Criminal Procedure Code as to why a suitable programme should not exist for an offender like him. If there were a need for any law reform in this regard, then that would be a matter for the Legislature," said the court, noting there was evidence he has some capacity for rehabilitation.

The court added that if his intellectual disability made him unsuitable for reformatory training, "this might be seen as excluding an entire class of persons - the intellectually disabled - from benefiting from reformatory training".

Chief Justice Menon said it would be wrong to hand him a jail sentence, which would have no rational objective for him, for the purpose of deterrence, or because he was not suitable for rehabilitation.

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