



THE COURT OF APPEAL

Record Number: 12/2023

Birmingham P.

McCarthy J.

Burns J.

BETWEEN/

BM

APPELLANT

- AND -

THE PEOPLE AT THE SUIT OF THE DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

JUDGMENT of the Court delivered on the 18th day of January, 2024 by Ms. Justice Tara Burns.

1. This is an appeal against conviction. On 3 June 2022, the appellant was convicted by majority verdict of defilement of a child under the age of 17 contrary to s. 3(1) of the Criminal Law (Sexual Offences) Act 2006.

Background

2. The appellant was a social worker at a residential unit for boys where the victim, who was 16 at the time of the offence, resided. The appellant, along with other members of staff, had responsibility for the care of the victim.
3. On a date unknown between 1 April and 15 May 2016, the victim went to the home of the appellant to cut her grass, following which, the appellant and the victim had sexual intercourse.
4. The manager of the residential unit, having been informed that a sexual relationship was occurring between the appellant and the victim, confronted the appellant about this allegation. The appellant denied this. She was placed on administrative leave while an investigation took place. The victim also denied any sexual relationship with the appellant when initially interviewed by his assigned social workers in the residential unit. Subsequently, the victim's sister, while visiting the victim at the residential unit on 30 May

2016, intercepted contact between the appellant and the victim via Facebook messenger. She brought the matter to the immediate attention of a manager of the residential unit.

5. A request for mutual legal assistance was made to the United States authorities, as a result of which, material from the victim's Facebook account was forwarded on a CD to the Irish authorities. This material purportedly included relevant communications between the appellant and the victim. The material was authenticated by a Certificate of Authenticity of Automatically Recorded Business Records signed by an authorised Facebook employee. Objection was taken at trial to the admission into evidence of this material, however the trial judge determined to admit the material before the jury.
6. An application to cross examine the victim on a broad range of separate sexual matters was made by the appellant pursuant to s. 3 of the Criminal Law (Rape) Act 1981. Permission to cross examine the victim was granted by the trial judge in relation to a number of identified matters but was refused in respect of two specific issues, namely a record of the appellant reporting a sexual incident he had witnessed to his social workers; and the contents of a report relating to him which referred to his sexual conduct.

Grounds of Appeal

7. By notice of appeal dated 11 January 2023, the appellant indicated her desire to appeal her conviction on the following grounds:-
 1. *"That the learned trial judge erred in law, principle and fact in allowing the admission of Facebook Messages allegedly passing between the Appellant herein and the Complainant into evidence before the jury;*
 2. *Further and in the alternative, that the learned trial judge erred in law, principle and fact in acceding to an application to admit evidence under the Criminal Justice (Mutual Assistance) Act, 2008 in respect of Facebook Messages allegedly passing between the Appellant herein and the Complainant in circumstances where the relevant conditions and/or requirements set out in the Act and/or the Irish-US Treaty on Mutual Assistance in Criminal Matters, 2001 were not met.*
 3. *Further and in the alternative, that the learned trial judge erred in law, principle and fact in acceding to an application to admit evidence under the Criminal Justice (Mutual Assistance) Act, 2008 in respect of Facebook Messages allegedly passing between the Appellant herein and the Complainant in circumstances where the messages sought to be adduced fell outside the scope of the formal request;*
 4. *The learned Trial judge erred in law in admitting evidence obtained from the United States of America by the Prosecution pursuant to the Criminal Justice (Mutual Assistance) Act, 2008, which said Act is contrary to the Appellant's*

- rights to privacy and personal integrity under the laws of the European Union and this State and or is otherwise contrary to laws of the European Union;*
5. *Further and in the alternative, that the learned trial judge erred in law, principle and fact in the manner in which he limited the cross-examination of the Complainant in respect of his previous sexual experiences and related matters;"*

Mutual Assistance Request and Response

8. A document dated 29 September 2017 which was headed "*Request for mutual legal assistance in criminal matters*" and directed to "*The Competent Authorities of the United States of America*" was compiled by the respondent. Relevant portions of the document with respect to the arguments advanced by the appellant are as follows:-

*"Request for mutual legal assistance in criminal matters
To: The competent authorities of the United States of America*

The Director of Public Prosecutions is the independent Legal Officer of Ireland responsible for the initiation of criminal proceedings, the direction of necessary procedures in the preliminary stages of such proceedings and the presentation subsequently of evidence at trials...

The Director of Public Prosecutions has directed that I shall exercise the function of the Director for the purpose of this Request for Mutual Legal Assistance... I refer to the treaty between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters of 18 January 2001. I confirm in accordance with the provisions of section 62 of the Criminal Justice (Mutual Assistance) Act 2008 (which is an Irish Statute) that the evidence requested is required for the purpose of criminal investigation and I have set out in Part 7 below a description of the conduct constituting the offence in question with such information as may assist the authorities of the United States of America.

An Garda Siochana is the National Police Force in Ireland.

1. *Requested Authority:*

The Competent Authorities of the United States of America

2. *Investigation:*

Defilement of a Child under the age of 17 years contrary to Section 3 of the Criminal Law (Sexual Offences) Act, 2006

3. *Suspect:*

[Details of appellant]

...

5. *Applied Conventions:*

The Ireland- US Treaty between the Government of Ireland and the Government of the United States of America on Mutual Assistance in Criminal Matters, done at Washington D.C. on 18 January 2001.

6. *Legal Qualifications of the Facts:*

[Section 3 of the Criminal Law (Sexual Offences) Act 2006 set out]

7. *Statement of Facts:*

[Detailed summary of the investigation set out to include details of what transpired on 30 May 2016 when the victim's sister intercepted Facebook Messenger communications between the victim and the appellant]

On 27 May 2017, An Garda Síochána made contact with Facebook in order to have the account preserved... pending receipt of a Mutual Assistance Request. Facebook advised that the information sought is located in the USA and provided the following Preservation Order Number: 1127295

8. *Requested Activities:*

It is respectfully requested that the following enquires are conducted and relevant documents and records are furnished with a view to progressing the Garda investigation:

...

8.2 *It is requested that the subscriber/account opening information, Internet Protocol (IP) Data, Port Number and Log-on History and Port Number held in respect of Facebook account [account details of victim provided]*

8.3 *It is requested that, details of private messages (Facebook Messenger) (including the content and media) and details of "friends" in respect of Facebook username [account details of victim provided] for the period 01 April 2016-18 May 2016, be obtained and provided to An Garda Síochána.*

*The address for Facebook Inc is as follows:-
[address provided]*

9. *The Activities are to be executed as follows:*

...

9.5 *It is respectfully requested that, where the material sought in this request includes business records, a Certificate of Authenticity of Automatically Recorded*

Business Records be completed by a competent official. A copy of the Certificate, as provided for in the Ireland-US Treaty, is appended hereto at Annex 1.

...

9.9 It is respectfully requested that the originals of any statements made and the originals or certified copies of any material obtained during the course of these enquiries (together with all necessary statements relating to continuity in handling of the material) be transmitted to An Garda Síochána in a manner which preserves the continuity and integrity of the material."

9. This document was transmitted to the Central Authority for Mutual Assistance, Department of Justice, by the Mutual Assistance Section of An Garda Síochána on 26 September 2017 with a request that it be transmitted to the US authorities. On the 28 September 2017, the Central Authority for Mutual Assistance transmitted the "*letter of request, issued by the [respondent]*" to the Department of Justice, Criminal Division, Office of International Affairs, United States of America.
10. A response was sent to the Irish Central Authority for Mutual Assistance on the 19 July 2018 which was transmitted by courier to the Mutual Assistance Section of An Garda Síochána on 24 July 2018. The response comprised a package which included a letter from the US Department of Justice addressed to the Irish Department of Justice which referred to the terms of the mutual assistance request and stated that the materials provided by Facebook in response to the request were enclosed. The original Certificate of Authenticity sworn and signed by Megan E. Partlow of Facebook was included in the package together with a CD in a padded envelope.
11. The Certificate of Authenticity of Automatically Recorded Business Records signed by Megan E. Partlow of Facebook recorded that on foot of a Mutual Legal Assistance Treaties Search Warrant issued by US District Court for the Northern District of California for certain records relating to [named account], she produced information as exhibit A which she explained as "*search results for subscriber information, messages, photos, IP logs and expanded content for the time period from April 1st, 2016 through May 31st, 2016*".
12. The material contained on the CD which was enclosed in the package conforms with the account sought. A password was provided to the investigating garda which permitted access to the CD.

Mutual Legal Assistance Treaty in Criminal Matters between United States of America and Ireland

13. On 18 January 2001, the Government of the United States of America and the Government of Ireland, entered into a Mutual Legal Assistance Treaty in criminal matters ('the Treaty'). Relevant portions of the Treaty provide:-

"Article 1 - Scope of Assistance

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution, and prevention of offences, and in proceedings related to criminal matters.

2. Assistance shall include:

- (a) taking the testimony or statements of persons;*
- (b) providing documents, records, and articles of evidence;*

...

Article 2 - Central Authorities

1. Each Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.

2. For the Government of the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General. For the Government of Ireland, the Central Authority shall be the Minister for Justice, Equality and Law Reform or a person designated by the Minister.

3. The Central Authorities shall communicate directly with one another for the purposes of this Treaty.

...

Article 4 - Form and Contents of Requests

...

2. The request shall include the following:

(a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;

(b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offences which relate to the matter;

*(c) a description of the evidence, information, or other assistance sought;
and*

(d) a statement of the purpose for which the evidence, information, or other assistance is sought.

3. To the extent necessary and possible, a request shall also include:

(a) information on the identity and location of any person from whom evidence is sought;

...

(e) a description of the manner in which any testimony or statement is to be taken and recorded;

...

(g) a description of any particular procedure to be followed in executing the request;

...

(i) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request.

...

Article 8 - Testimony or Evidence in the Territory of the Requested Party

1. A person in the territory of the Requested Party from whom testimony or evidence is requested pursuant to this Treaty may be compelled, if necessary, to appear and testify or produce items, including documents, records, and articles of evidence.

...

5. Evidence produced in the territory of the Requested Party pursuant to this Article or which is the subject of testimony taken under this Article may be authenticated by an attestation, including, in the case of business records, authentication in the manner indicated in Forms A1 or A2, as applicable, appended to this Treaty. The absence or nonexistence of such records may, upon request, be certified through the use of Forms B1 or B2, as applicable, appended to this Treaty. Records authenticated by Forms A1 or A2, or Forms B1 or B2 certifying the absence or nonexistence of such records, shall be admissible in evidence in the Requesting Party. Documentary information produced pursuant to this Article may also be authenticated pursuant to such other form or manner as may be prescribed from time to time by either Central Authority.

...”

14. Arising from an agreement between the United States Government and the European Union signed on the 25 June 2003, a number of amendments were adopted into the Treaty. The amended Treaty was signed by the respective Governments of the United States and Ireland on 14 July 2005.

15. Article 1 of the Treaty signed on 14 July 2005 states:-

"As contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003..., the Governments of the United States of America and Ireland acknowledge that, in accordance with the provisions of this Instrument, the U.S. -EU Mutual Legal

Assistance is applied in relation to the bilateral Treaty between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters signed 18 January 2001... under the following terms:

...

(e) Article 8 of the US-EU Mutual Legal Assistance Agreement as set forth in Article 1(1 bis) of the Annex to this instrument shall govern the providing of mutual legal assistance to the administrative authorities concerned, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;"

16. Article 1(1 bis), as adopted into the Treaty provides as follows:-

"1 bis. (a) Mutual legal assistance shall also be afforded to a national administrative authority, investigating conduct with a view to a criminal prosecution of the conduct, or referral of the conduct to criminal investigation or prosecution authorities, pursuant to its specific administrative or regulatory authority to undertake such investigation. Mutual legal assistance may also be afforded to other administrative authorities under such circumstances..."

(b) Requests for assistance under this paragraph shall be transmitted between the Central Authorities designated pursuant to Article 2 of this Treaty, or between such other authorities as may be agreed by the Central Authorities."

17. Section 94(1) of the Criminal Justice (Mutual Assistance) Act 2008 ('the 2008 Act') provides that the Treaty has the force of law in its application in relation to the State.

The Submissions

18. The appellant submitted that the trial judge should not have admitted the Facebook messages into evidence by way of Certificate of Authenticity of Automatically Recorded Business Records as the correct procedure had not been utilised in that the request was actually made pursuant to the provisions of s. 62 of the 2008 Act (which it was asserted did not relate to the United States), rather than pursuant to the Treaty. In the alternative, if it was determined that the request was made pursuant to the Treaty, the request was unlawful as it did not comply with the provisions of the Treaty in that the request was made by the respondent rather than by the Central Authority. In addition, the material provided by Facebook had not been requested as it related to a time period outside of the requested time period; and the respondent had not established that the CD which was produced at trial was the material which had been authenticated by the Certificate. It was also submitted that the trial judge erred in prohibiting the cross examination of the victim on two identified grounds, referred to earlier, which were submitted to be relevant.

19. The respondent submitted that the procedure adopted in making the mutual assistance request was not flawed - the request had been made pursuant to the Treaty and not s. 62 of the 2008 Act and complied with the provisions of the Treaty as the requirement was that a request was "*transmitted*" rather than "*made*" by the Central Authority. In the alternative, if it was determined that the request was made pursuant to s. 62 of the 2008 Act (it being accepted by the respondent, as asserted by the appellant that s. 62 of the 2008 did not relate to the United States), it nonetheless remained a valid request and satisfied the requirements of the Treaty. The fact that information relating to a wider time frame had been supplied by Facebook did not invalidate what had been received and could be admitted into evidence. Finally, there was sufficient evidence to allow the jury to infer that the Certificate of Authenticity related to the material comprised on the CD. It was further submitted that an unfairness did not arise as a result of the trial judge limiting the extent to which the victim could be cross examined on his sexual history.

Discussion and Determination

What provision was the request made under?

20. Section 62 of the 2008 Act provides:-

"Evidence from person in designated state.

62.— (1) Where it appears to a judge at a sitting of any court that criminal proceedings have been instituted or a criminal investigation is taking place in the State, the judge may issue a letter (a "letter of request") requesting assistance in obtaining from a person in a designated state such evidence as is specified in the letter for use in the proceedings or investigation.

(2) Application for a letter of request may be made by the Director of Public Prosecutions or a person charged in any such proceedings that have been instituted.

(3) The letter of request shall be sent to the Central Authority for transmission to the appropriate authority.

(4) Notwithstanding subsections (1) to (3), where proceedings in respect of an offence have been instituted or a criminal investigation is taking place, the Director of Public Prosecutions may issue and transmit a letter of request directly to the appropriate authority.

(5) The letter of request shall include—

(a) a statement that the evidence is required for the purpose of criminal proceedings or a criminal investigation,

(b) a brief description of the conduct constituting the offence concerned, and

(c) any other available information that may assist the appropriate authority in complying with the request.

....

(8) *A statement of the evidence of a witness-*

(a) taken in accordance with a letter of request, and

(b) certified by or on behalf of the court, tribunal or authority by which it was taken to be an accurate statement of the evidence,

is admissible, without further proof, in proceedings relating to the offence concerned as evidence of any fact stated therein of which oral evidence would be so admissible."

21. The appellant argued that the request to the United States authorities for the victim's Facebook material was actually made pursuant to s. 62 of the 2008 Act rather than pursuant to the Treaty. It was asserted that this was of significance as s. 62 of the 2008 applied only to designated states and the United States was not so designated. The respondent did not accept that the request was made pursuant to s. 62 of the 2008, however did accept that the United States was not a designated State for the purposes of s. 62 of the 2008. As an aside, the respondent asserted that s. 62 was not the appropriate section for a request of this nature and identified s. 73 as the appropriate section, had the request been made pursuant to the 2008 Act, which was not accepted.
22. The parties were incorrect in the assertion that the United States was not a designated State as it had been made a designated State for the purpose of Part V of the 2008, to include s. 62 of the 2008 Act, pursuant to S.I. 42/2010. This provision was brought to the attention of the parties at a resumed hearing to permit the parties make further arguments, if they so wished. The unusual situation arose that if the Court determined that the request was not made pursuant to the Treaty, it may still have been a valid request pursuant to s. 62 of the 2008 Act, which was not a position argued in the appeal arising from the misunderstanding of the parties relating to the United States being a designated State for the purposes of s. 62 of the 2008 Act.
23. The Court is satisfied that this request was made pursuant to the provisions of the Treaty rather than s. 62 of the 2008. While s. 62 of the 2008 is mentioned in the body of the request, the Treaty is referred to on numerous occasions throughout the request, but most importantly, is specified under the heading "*Applied Conventions*". This establishes that the respondent was utilising the Treaty for this request. While there is a reference to s. 62 of the 2008 Act, this does not override the express reference to the Treaty being the convention under which the request is made and establishes that the respondent intended to invoke the provisions of the Treaty in making this request.
24. As a result of that determination, the question as to whether s. 62 or s. 73 of the 2008 Act was the correct vehicle for a request of this nature does not arise for consideration by the Court.

25. With respect to compliance with the Treaty, the appellant submitted that the Treaty required a request to be "*made*" by a Central Authority. It was submitted that this was not the position in the instant case as the request clearly was made by the respondent. The respondent accepted that the request emanated from her office but argued that the terms of the Treaty only required that the request be "*transmitted*" and in that sense "*made*" by the Central Authority. The respondent submitted that while the request was generated and made on her behalf, it was formally transmitted by the Department of Justice, the designated Central Authority pursuant to the Treaty, to the designated US Central Authority, and therefore was in compliance with the Treaty.
26. The amendment to the original Treaty reflected in Article 1(1 bis) mandates that mutual legal assistance is afforded to prosecution authorities and requires requests of this nature to be transmitted between the designated Central Authorities. While Article 2 of the Treaty refers to a request being "*made*" by the designated Central Authority, Article 1(1 bis), which is the governing provision in relation to requests from prosecution authorities, makes it clear that such requests are to be "*transmitted*" between the designated Central Authorities. This, of course, makes complete sense as the designated Central Authority could not possibly be in the position to understand the details of the request to be made in a given prosecution. Accordingly, the reference to "*made*" in Article 2 of the Treaty, must be interpreted in light of the amendment introduced in Article 1(1 bis), and therefore must mean transmitting the request rather than actually determining the terms of the request.
27. In the instant case, a request was generated by the respondent and forwarded to the Central Authority so that a request for mutual assistance could be made to the Central Authority in the United States. The respondent generated a request for mutual assistance, however in terms of its transmission to the appropriate authority in the United States, the request was properly transmitted between the designated Central Authorities, in compliance with the Treaty. The fact that the request was generated by the respondent does not infringe the terms of the Treaty.
28. The Court is of the view that the request made in the instant case complied with the Treaty as it sets out all the required ingredients pursuant to Article 4 of the Treaty. Indeed, this was not at issue between the parties. Accordingly, the Court is of the view that the request was properly made pursuant to the Treaty and was a valid request made by the respondent who passed it through the appropriate channels for formal transmission by the Irish Central Authority to the US Central Authority.

Material provided outside the temporal scope of the request

29. The request made by the respondent was in respect of material relating to a particular Facebook account for dates between 1 April 2016 to 18 May 2016. The material which was generated by Facebook on foot of the request extended to 31 May 2016.

30. Matters relevant to the investigation had occurred on 30 May 2016 which was referenced in detail in the mutual assistance request, namely, the victim's sister had intercepted Facebook communication between the victim and the appellant on that date.
31. The appellant argued that as the request did not extend to material after the 18 May 2016, any material relating to a later date could not be introduced into evidence. The respondent argued that as the material in question was issued on foot of a search warrant and was subject to a Certificate of Authenticity, the fact that material was provided which was outside the time frame of the original request did not render its production unlawful.
32. The method by which a mutual assistance request of this nature is processed is that a search warrant from a US District Court issues on foot of the mutual assistance request. The terms of the search warrant issued in this matter is unknown. However, it is clear from the Certificate of Authenticity that a search warrant grounded the production of the material.
33. The material at issue was produced as a result of a lawful mutual assistance request on foot of which a US District Court issued a search warrant. The material produced on foot of that search warrant was authenticated by a Certificate of Authenticity, in compliance with the Treaty. While material was produced which was outside the time period of the request, the Court fails to see that relevant material which has been authenticated, must of necessity be excluded because it had not been requested.

The CD and the Certificate of Authenticity

34. The relevant Facebook material which was admitted into evidence in the trial was contained on a CD. The Certificate of Authenticity from Facebook did not refer to a CD but rather to exhibit "A1". The CD which contained the relevant Facebook material was not labelled "A1". The appellant submitted that the trial judge had been incorrect to admit the contents of the CD into evidence, as there was insufficient evidence to establish that the CD which contained relevant Facebook material was the "A1" exhibit referred to in the Certificate of Authenticity received from Facebook.
35. This argument fails to take account of the evidence before the trial judge in relation to the receipt of the material the subject matter of the mutual assistance request. Garda Brosnan gave evidence that he received a single package which contained a letter from the US Department of Justice addressed to the Irish Department of Justice which referred to the terms of the mutual assistance request and stated that the materials provided by Facebook in response to the request were enclosed. The original Certificate of Authenticity and a CD in a padded envelope which stated "*The Federal Bureau of Investigations Mutual Legal Agreement Unit in the Matter of [BM], Case No. (given), Country - Ireland, Date July 2nd*"

2018" were included with this letter. The CD contained material relating to an account the subject matter of the mutual assistance request.

36. In light of that evidence, there was sufficient evidence to infer that that the Certificate of Authenticity related to the material contained on the CD included within the same package. Accordingly, the trial judge did not err in admitting this material into the trial proper. It remained open to the appellant to argue before the jury that they could not be satisfied of this issue beyond reasonable doubt.
37. Accordingly, having considered all of the issues raised by the appellant regarding the mutual assistance request, the Court is of the view that the trial judge did not err in admitting the material generated as a result of the mutual assistance request into evidence.

Prohibiting cross examination of the victim on two specific issues

38. The trial judge refused the appellant leave to cross examine the victim on two specific issues, namely the victim reporting that he witnessed other residents of the care home having sexual intercourse with an unconscious woman; and a reference in a report to the victim having "*unsafe sexual encounters*".
39. These matters had been dealt with in the context of an application pursuant to s. 3 of the Criminal Law (Rape) Act 1981, seeking the leave of the Court to cross examine the victim on previous sexual experiences. The outcome of that application was that cross examination of the victim was permitted on a number of areas relating to previous sexual experiences to include previous allegations of rape by him and previous unsafe sexual encounters.
40. The appellant argued that the report by the victim of witnessing other people having sexual intercourse with an unconscious woman, which he made at the time he initially denied having sexual involvement with the appellant, is relevant because it lends weight to the contention that his initial denial was accurate. The Court cannot see any relevance to this line of questioning. The trial judge did not err in refusing to permit the victim to be questioned about this.
41. The appellant argued that the report which related to the appellant being involved in repeated unsafe sexual encounters together with other anti-social behaviour was necessary and relevant as the jury might more readily accept the appellant's position that the victim was someone with the capacity to make up allegations of this nature in circumstances where he has considerable experience and a history of unsafe sexual encounters. The Court disagrees. Firstly, from an evidential perspective, referring to this note was problematic. It was not the victim's note but rather a note made by a social worker relating to him. The note was not proved in evidence by its author. Furthermore, the origin of the information contained in the note was not established. However, aside from these important evidential issues which render production of the note before the jury problematic, the information that

he was asserted to be involved in unsafe sexual encounters was before the jury in other guises as the trial judge permitted the victim to be cross examined in relation to the underlying events which raised this issue. The trial judge, therefore, was also correct to refuse leave to cross examine the victim on the report which referred to him being involved in unsafe sexual encounters.

42. Accordingly, the trial judge did not err in failing to permit cross examination on these two specific areas.

Conclusion

43. The mutual assistance request in this matter was made under the appropriate international convention. The material provided on foot of the request was correctly admitted into evidence despite the fact that material relating to a wider time period than that requested was provided on foot of the request. The evidence established that the CD which contained the material admitted into evidence was sufficiently connected with the Certificate of Authenticity such that it was open to the jury to determine that the Certificate of Authenticity related to the CD. The trial judge was correct to refuse leave to cross examine the victim on two specific areas, one of which was irrelevant to matters at issue and the second of which was, aside from being evidentially difficult, already explored arising from other cross examination which had been permitted.
44. In circumstances where we have not upheld any of the appellant's grounds of appeal, her appeal against conviction is dismissed.