



THE HIGH COURT

[2026] IEHC 534

[Record No. HCA 2026/18]

**ON APPEAL FROM THE CIRCUIT COURT
SOUTHWESTERN CIRCUIT OF KERRY**

BETWEEN

MELANIE WALSH

PLAINTIFF

AND

MICHELLE KEANE

DEFENDANT

JUDGMENT of Mr. Justice Brian Cregan delivered on 22nd July 2026

Introduction

1. This is an appeal by Ms. Keane against the finding of the Circuit Court Judge that she was in contempt of court, and an appeal against his decision that she be committed to prison.

2. On 10th December 2024, the plaintiff brought an application for attachment and committal against the defendant for breach of a Circuit Court Order. The Circuit Court Judge (Judge O'Donoghue) found that the defendant, Ms. Keane, was in contempt of court and committed her to Limerick Prison until she purged her contempt. The judge directed that the matter be listed before him again on 13th December 2024 and on that day Ms. Keane gave an undertaking that she would abide by the court order.

3. Ms. Keane's appeal is based on a number of grounds. In particular she submits:-

1. that there was no breach of the Circuit Court Order;
2. that she never received a copy of the Circuit Court Order with the penal endorsement inscribed thereon;
3. that there was no fair hearing on 10th December 2024;
4. that there was no valid committal warrant for her committal to prison;
5. that Ms. Keane was, in substance, "coerced" into giving the undertaking.

4. I granted Ms. Keane an extension of time to appeal the order of the Circuit Court and the appeal was heard before me on 8th July 2026 over a number of hours.

Background

5. The background to this case is that Ms. Keane stood as a candidate in the last General Election and as a candidate for Kerry County Council, and she was active on social media. It appears that a number of complaints were made to An Garda Síochána about some of these social media posts. As a result, a member of an An Garda Síochána, Ms. Walsh, the plaintiff in these proceedings, was instructed to contact the defendant to ask her to come into the garda station to discuss the matter. In her capacity as a member of An Garda Síochána, Ms. Walsh telephoned Ms. Keane to

discuss the matter with her and to request that she come to the local garda station to discuss the matter further. It appears that Ms. Keane took offence at the request and requested to know who had made the complaints about her and whether they had been made to damage her political campaign. Unbeknownst to the plaintiff, Ms. Keane recorded the telephone conversation and subsequently posted it on social media.

6. In the days and weeks that followed, Ms. Keane posted other matters on social media about the plaintiff which the plaintiff regarded as defamatory. As a result, the plaintiff issued defamation proceedings in the Circuit Court against the defendant.

7. These proceedings were issued by way of an Equity Civil Bill on 10th June 2024. As part of this Equity Civil Bill, the plaintiff sought an injunction (i) restraining the defendant from publishing any further defamatory statements on any social media and (ii) requiring the removal of any such statements from all social media platforms by the defendant.

8. In her grounding affidavit, Ms. Walsh states at para. 6: -

“On or about 22 March 2024 I was appointed to investigate a matter reported via an online garda email feedback system. I believe that complaints had been received regarding the defendant who at that time was an independent candidate seeking election to Kerry County Council. These complaints concerned what were alleged to be homophobic and racial posts she had published across various social media platforms.”

9. She states at para. 7: -

“Having reviewed the said posts and spoken to my inspector, I believed the best course of action was to contact the defendant and arrange to meet informally to advise her that language employed in certain posts was causing offence and that a number of complaints have been received.”

10. She said at para. 8: -

“On or about 17 April 2024 while on duty at Listowel Garda Station I rang the defendant and spoke to her for a few minutes during which conversation she asked me to send her an email outlining exactly what I wanted to ask. The call then ended.”

11. She states at para. 9: -

“A few minutes later the defendant rang the said station looking for me and berated me for not having sent the said email. I told her I was in the process of writing it. She also said she could not make it to the said garda station and asked would I come to her instead. An appointment was then made to meet her the following day 23 April 2024 at 1pm at her house.”

12. Subsequently, the plaintiff averred that on Thursday, 18th April 2024, she was informed by colleagues that the defendant had recorded and broadcast their telephone conversation across various social media platforms.

13. The plaintiff stated that the defendant’s campaign of defamation against her appears to have stemmed from a single telephone call she made to the defendant on 17th April 2024 and she states, *“I believe that there can be no interpretation of the recording of the telephone call in which I could be deemed to be threatening or aggressive with the defendant.”*

14. The plaintiff complained about the defendant's conduct and sought the injunction required. A transcript of various social media posts was also exhibited to the affidavit of Ms. Walsh, grounding the application for an interlocutory injunction.

15. On 11th June 2024, the plaintiff applied on an *ex parte* basis for a date for the hearing of the injunction.

16. It would appear that the plaintiff's *ex parte* application for a hearing date for the injunction was picked up by the local newspaper, the Kerry Eye, and the defendant found out about the proceedings, when she walked into her local shop, to see the story, that she was being sued by the plaintiff, on the front page of the Kerry Eye newspaper on 13th June 2024, under the headline “*Garda Sues Candidate in Shock Defamation Action Over Election Campaign.*”

The injunction granted in the Circuit Court

17. In any event, on 9th July 2024, the Circuit Court (Judge Comerford) granted the plaintiff an interlocutory injunction restraining the defendant from posting any further messages on social media platforms regarding the plaintiff. In view of the importance of the exact terms of the injunction, I will set them out below.

18. The court ordered at para. 3 that: -

"The court doth grant an interlocutory injunction forthwith prohibiting the publication on the internet by the defendant or any other party acting in concert with the defendant of any statements concerning the plaintiff on any social media platforms pending the determination of these proceedings." (Emphasis added.)

19. At para. 4 the court ordered as follows: -

"The court doth grant an interlocutory injunction pursuant to section 33 of the Defamation Act 2009 requiring the removal forthwith by the defendant of any posts naming or referring to the plaintiff from any or all social media platforms pending the determination of these proceedings."

20. At para. 5 the court stated as follows: -

“The court doth grant an interlocutory injunction on the fact of the action of breach of privacy and confidentiality, that the defendant or any person acting in concert with the defendant be prohibited forthwith from publishing any personal information concerning the plaintiff in any manner, to include any contact details, address or any details concerning any ongoing work or family of the plaintiff pending the determination of these proceedings.” (Emphasis added.)

21. Ms. Keane complained that she was not properly served with the motion papers for this injunction and she also complained that she was unwell and was not in a position to attend court on that day. She says that the court should not have proceeded to hear this matter in her absence.

22. In any event, the court did proceed to hear the matter in her absence despite her sicknote; the court deemed service good and the court granted an injunction to the plaintiff in the terms set out above.

23. Ms. Keane then appealed that order to the High Court and the appeal of this injunction was due to be heard by the High Court in or about January 2025. In my view, this was an important element to be considered by the trial judge at the hearing of the application for attachment and committal on 10th December 2024.

24. The defendant filed a full defence to the proceedings on 25th September 2024.

The motion for attachment and committal

25. On 29th November 2024, the plaintiff issued a notice of motion (made returnable to the Circuit Court on 10th December 2024) for an order for attachment and committal of the defendant for breach of the order of the Circuit Court dated 9th July 2024. The application was grounded upon two affidavits: the affidavit of Ms.

Melanie Walsh and the affidavit of Mr. Brian Long, her solicitor, in which he stated that *"I say that a true copy of the said order with penal endorsement were served by me on the defendant personally at Tralee Courthouse on 27 September 2024."*

26. The plaintiff, in her affidavit, exhibited the order of 9th July 2024 of the Circuit Court and she stated at para. 5 of her affidavit that: - *"In breach of the said order the defendant has caused to be published on the internet statements of and concerning me on the following occasions"*, and she set out five Facebook posts on 24th September 2024, 27th September 2024, 29th October 2024, 11th November 2024 and 28th November 2024.

27. However, at the hearing before me, senior counsel for the plaintiff indicated that, in fact, the plaintiff was only complaining about one of these Facebook postings (i.e. the one on 28th November 2024.) The others he said, did not, in precise terms, breach the order of the Circuit Court.

28. This is important because in an application for attachment and committal, it is of importance that a person against whom an order for attachment and committal is made, knows with some particularity, how it is alleged that they have breached the court order.

29. Moreover, in the transcript of this Facebook posting by the defendant on 28th November 2024 (the transcript of which runs to 3½ typed pages) the plaintiff only complained about one statement in it, on page 1, which states as follows: -

"A female garda in a North Kerry garda station tried to sabotage my political campaign in running for a political seat." [sic]

30. Importantly, Ms. Keane swore a replying affidavit, (contesting the application for attachment and committal) on 4th December 2024. In this affidavit, Ms. Keane made a number of points. First, she stated that although she received a copy of the

notice of motion and grounding affidavit (in respect of the motion for attachment and committal) (by registered post on 3rd December 2024), she never received a copy of the order containing a penal endorsement served by the plaintiff on her at any time.

31. It is important to note that again and again in various affidavits filed in this matter, Ms. Keane has repeatedly sworn that she never received a copy of the order of the Circuit Court of 9th July 2024 with the penal endorsement endorsed thereon.

However, Mr. Brian Long, solicitor for the plaintiff, has sworn at least two affidavits in which he said he personally served the order with the penal endorsement on the defendant at Tralee Courthouse on 27th September 2024. Ms. Keane disputes this averment by Mr. Long.

32. There is therefore a conflict of evidence between Ms. Keane and Mr. Long. Neither party was cross-examined by the other and therefore it is not possible for this Court to ascertain the exact facts of the matter. However, in my view, there is no doubt that as the requirement for a penal endorsement is an essential procedural requirement in any application for attachment and committal, it follows that when Ms. Keane stated in her affidavit that she had not received a copy of the penal endorsement, the correct approach for the Circuit Court Judge to have taken was to have adjourned the motion for attachment and committal on 10th December 2024 and directed the plaintiff's solicitor to re-serve the order with the penal endorsement on the defendant in order that this essential procedural requirement would be fulfilled. This was never done. The matter could then have been adjourned to a date in January after the High Court appeal.

33. More substantively, Ms. Keane in her replying affidavit at para. 6 states as follows: -

“I beg to refer to the proceedings herein that I have not breached any court order made by his Honour Judge Comerford made at Ennis Court on 9 July 2024 in relation to this case and I refute these allegations made by Melanie Walsh as these allegations are mis-contrived in which Melanie Walsh has sworn in her affidavit dated 29 November 2024.” [sic]

34. She also states at para. 7: -

“I beg to refer to the proceedings herein that I have not breached any court order made by his Honour Judge Comerford made at Ennis Court on 9 July 2024 and I deny all allegations made by Melanie Walsh in her grounding affidavit made on 29 November 2024.” [sic]

35. She also states at para.8 that she had appealed the order of Mr. Justice Comerford to the High Court, and that the High Court (Ms. Justice Gearty) had made an order that Ms. Keane had liberty to issue a notice of motion seeking a stay, returnable to the non-jury list on 23rd January 2025.

36. It is clear therefore, that Ms. Keane in her replying affidavit to the motion for attachment and committal, had made a number of important points. These were: -

1. that she had never received a copy of the order with the penal endorsement;
2. that she denied that she had breached any of the terms of the interlocutory injunction; and
3. that she had appealed the order of the Circuit Court to the High Court and that this had a hearing date of 23rd January 2025.

The hearing of the motion for attachment and committal on 10th December 2024

37. On 10th December 2024, the Circuit Court (Judge O'Donoghue) heard the plaintiff's application for attachment and committal and made a finding that Ms.

Keane was in contempt of the Circuit Court order, by reason of her refusal to obey the order of the court of 9th July 2024. He ordered that Ms. Keane be arrested and committed to Limerick Prison immediately, to be detained there until she purged her contempt or until 13th December 2024, whichever was the earlier. Ms. Keane was committed to prison on 10th December 2024.

38. The court order also recited that Ms. Keane was to be brought to Killarney on 13th December 2024 to be given an opportunity to purge her contempt.

39. It is fair to say, that in all her appearances before this Court leading up to this hearing, Ms. Keane was particularly exercised by the fact that she said she never received a fair hearing before Judge O'Donoghue in the Circuit Court on 10th December 2024. In the circumstances, I made an order permitting both parties to obtain a transcript of the DAR hearing on 10th December 2024 before Judge O'Donoghue. These transcripts were furnished to all parties, including the court, and I have had an opportunity of reading them.

40. In addition, I also directed that all parties could listen to the DAR recordings in advance of the hearing of the appeal. This was done by both sides, and by the court.

41. At the commencement of Ms. Keane's appeal, I requested that the DAR of the hearing of 10th December 2024 be played in court for the benefit of all parties, including the court.

The lack of a fair hearing

42. A number of points became immediately clear once the court and all parties listened to the DAR of the hearing before Judge O'Donoghue on 10th December 2024. First, the entire hearing before Judge O'Donoghue took no more than ten minutes between 11:27am and 11:37am. The application commenced with the plaintiff's solicitor handing in a book of motion papers to the court. It is clear that the

judge did not rise to read the papers in his chambers before the application was heard. Counsel for the plaintiff outlined the nature of the application starting at 11:27am and his submissions lasted for six minutes. In the course of his submission, he did not open either of the affidavits, and, in particular, he did not open the affidavit of Ms. Keane.

43. After six minutes, Judge O'Donoghue turned to Ms. Keane, ostensibly to hear her side of the case. But within one minute - literally within one minute - the judge stated that he was of the view that Ms. Keane was in breach of the court order and requested that she give an undertaking to obey it or else he would hold her in contempt and commit her to prison. Ms. Keane therefore had perhaps less than one minute, and certainly no more than two minutes, to make her case to the judge. After two minutes, the judge moved on to two other motions before the court relating to this case – which were not relevant to the motion for the attachment and committal – and after two more minutes the judge requested Ms. Keane to go outside and confer with the plaintiff's counsel on the terms of an undertaking. When the parties came back before the Court and no undertaking was agreed, the judge directed that Ms. Keane be committed immediately to Limerick Prison.

44. It is quite clear when one reviews the transcripts, and listens to the DAR, that the hearing before Judge O'Donoghue was manifestly unfair to Ms. Keane. It is a fundamental principle of constitutional and natural justice that the court must listen to the other side. This is encapsulated in the maxim *Audi Alteram Partem*: “Listen to the other side.” This requirement to hear the other side is particularly important in cases where the liberty of the citizen is at stake, such as in a motion for attachment and committal. It is quite clear in this case that the Circuit Court Judge did not listen to the other side; he did not listen to Ms. Keane; he did not give her any meaningful

opportunity to be heard. Even though she stated in her brief submission, and in her affidavit, that she was not in breach of the court order, he never enquired as to why she was of this view and what were the grounds for that argument. The judge simply assumed everything the plaintiff's counsel said was correct, and paid no attention whatsoever to the views of Ms. Keane. He prevented Ms. Keane from making her case in any meaningful sense and deprived her of an opportunity to be heard. It was a manifestly unfair hearing.

45. In the course of the appeal, I asked senior counsel for the plaintiff how he could stand over the unfairness of this Circuit Court hearing before Judge O'Donoghue, and counsel, having considered the matter over lunch, and having obtained instructions from his client, accepted that he could not stand over the hearing before the Circuit Court Judge. That is a welcome and important concession.

46. On this basis alone, *i.e.* that the hearing was manifestly unfair and that Ms. Keane was given no proper opportunity to be heard, I have no hesitation in setting aside the finding of the Circuit Court Judge that Ms. Keane was in contempt of court, and also in setting aside the order that Ms. Keane was to be committed to Limerick Prison until she purged her contempt. This order was manifestly unlawful and should not have been made.

De novo re-hearing

47. However, counsel for the plaintiff submitted, correctly, that as this was an appeal from the Circuit Court to the High Court, it was a *de novo* re-hearing and therefore there would have to be a re-hearing of the plaintiff's motion for attachment and committal before the High Court. In other words, the plaintiff's motion for attachment and committal was now before the High Court to ascertain whether the

High Court would make, or would have made, an order for the attachment and committal of Ms. Keane. Therefore, the rest of the appeal proceeded on that basis and I will deal with the arguments raised by Ms. Keane on this appeal.

The lack of a penal endorsement

48. It is clear from the case law that a requirement for a penal endorsement is an essential procedural requirement and a court should not proceed to a final conclusion on a motion for attachment and committal unless the order with the penal endorsement has been properly served on the relevant party.

49. I am satisfied that there is a conflict of evidence as to whether Ms. Keane received a copy of the order with the penal endorsement before the Circuit Court matter was heard and, if this matter were appearing before me for the first time, I would simply have adjourned the motion for attachment and committal for a period of two weeks and I would have directed the plaintiff's solicitors to re-serve the order, with the penal endorsement thereon, on the defendant.

50. However, it is clear, on the motion papers before this Court, that Ms. Keane was served with a copy of the order with the penal endorsement in the papers lodged for this appeal.

51. I am satisfied therefore that this essential procedural requirement was fulfilled before this High Court appeal came on.

No breach of the court orders

52. I turn now to consider the substance of the matter – which is whether in fact Ms. Keane actually breached the terms of the Circuit Court Order of 9th July 2024. The heart of the plaintiff's application was that the Circuit Court injunction prohibited the publication by the defendant of any statements concerning the plaintiff on social

media by the defendant. The plaintiff said that the defendant posted five social media recordings of which one, although it did not identify the plaintiff by name, referred to “*a female Garda in a North Kerry garda station.*” The plaintiff’s counsel submitted to the Circuit Court that “*the dogs in the street*” knew that this referred to the plaintiff, and therefore the plaintiff was in breach of the court order.

53. However, Ms. Keane submitted to this court that she was not in breach of any court order, that she took court orders seriously, and that, as far as she was concerned, the social media post did not identify the plaintiff. This is important because para. 5 of the Circuit Court Order of 9th July 2024 states as follows: -

“That the court doth grant an interlocutory injunction on the fact of the action of breach of privacy and confidentiality, that the defendant or any person acting in concert with the defendant be prohibited forthwith from publishing any personal information concerning the plaintiff in any manner, to include any contact details address or any details concerning any ongoing work or family of the plaintiff pending the determination of these proceedings.”

(Emphasis added.)

54. Ms. Keane’s defence was that she did not publish any personal information concerning the plaintiff; she did not identify the plaintiff; she did not include any contact details or address or any details of the work or family of the plaintiff.

55. This Court must assess therefore, the terms of the order, the submissions of the plaintiff, and the defence of the defendant, in considering whether Ms. Keane committed a deliberate and knowing breach of the court order such that she could be found to be in deliberate contempt of court. If there is any lack of precision or ambiguity in the court order, it must be interpreted in a manner favourable to a person

against whom a motion for attachment and committal is brought, because their personal liberty is at stake.

Legal principles

56. As Hardiman J. stated in *Quinn & Ors. v IBRC* [2012] IESC 51: -

"If a citizen could be summarily imprisoned, or fined a huge sum of money, without all proper meticulous attention being paid to the procedures which exist for his protection, then the liberties of citizens generally would be undermined. Everyone threatened with imprisonment for contempt (...) is entitled in the public interest, to a meticulous observation of procedural justice."

57. As I stated in *Mars Capital Finance DAC v. O'Halloran* [2025] IEHC 307 at para. 91: -

"In my view, in order to find that a person is liable to an order for committal to prison on foot of an application for attachment and committal a court should be satisfied: -

- (1) that there is an order of the High Court which is clear and precise about what has to be done or not done;*
- (2) that the respondent to such an application has received a copy of this order with the penal endorsement thereon;*
- (3) that the respondent understands clearly what the order means and what steps he or she must take to comply with the order;*
- (4) that the respondent refuses to comply with the High Court order;*
- and*

(5) *that the respondent has no reasonable grounds as to why he or she will not comply with the said order.*”

Assessment

58. I turn now to a consideration of these criteria.

59. First, it is clear to me that Ms. Keane did not clearly understand what the order meant. In her view, she was not in breach of the court order because she did not identify the plaintiff. I think there were reasonable grounds for this view because the order of the court was not sufficiently clear and precise about what had to be done or not done. In particular, Ms. Keane believed the order to be that she should not identify the plaintiff by name.

60. Secondly, unlike many of the cases which come before this Court, where the alleged contemnor deliberately and knowingly breaches the order of the court, I am of the view – and Ms. Keane has stated this clearly on a number of occasions to the court – that she did not intend to breach the court order and that she would comply with the terms of the court order at all times. I am satisfied therefore that this is not a case where Ms. Keane has deliberately refused to comply with the Circuit Court Order.

61. Thirdly, as Ms. Keane has said that she would comply with the terms of the order, the fifth condition set out in *O'Halloran* does not arise. In that case, Ms. O'Halloran had no reasonable grounds as to why she would not comply with the court order and she defiantly refused to obey the court order. That is not the case here. Ms. Keane accepts the court order, and there is a *bona fide* dispute as to what precisely is meant by the terms of that order, and whether her post (in particular the single post about which complaint is made) is in breach of the said order.

62. Therefore, in the normal course of action, I would have requested Ms. Keane to take down the offending post and, if she did so, then I would not make a finding

that she was in contempt of court nor would I make an order for her attachment and committal to prison. Ms. Keane indicated to the court that she would, of course, obey such a direction. As Ms. Keane has already taken down the five posts complained of, there is no need for me to make this order.

63. I would, therefore, conclude that Ms. Keane is not in contempt of the Circuit Court Order of 9th July 2024 and that she should never have been found to be in contempt of the said order.

64. In the circumstances, I will allow the appeal and refuse the application for attachment and committal.

The undertaking given on 13th December 2024

65. On Friday, 13th December 2024 Ms. Keane was produced before Killarney Circuit Court and given an opportunity to purge her contempt. Ms. Keane was in a very invidious position. She had spent three very difficult days in Limerick Prison and she has set out in her affidavit the difficulty of those conditions. She has two young children, it was coming up to Christmas and she needed to be at home. In the circumstances, she gave an undertaking to purge her contempt and to comply with the Circuit Court Order. However, Ms. Keane says that she was “coerced” into giving this undertaking because of the difficulties of her circumstances.

66. Given that I am of the view that the Circuit Court Judge erred in law in holding that Ms. Keane was in contempt, and erred in law in making an order for her attachment and committal, it follows as night follows day, that Ms. Keane should never have been put in a position where she had to give an undertaking to purge her contempt. Insofar as she did give that undertaking, I will set this undertaking aside, as it was clearly not necessary for her to give that undertaking in the first place.

67. I am of the view, that Ms. Keane should never have been committed to prison in the first place, and therefore she should never have been put in a position where she had to give that undertaking.

No valid committal warrant

68. Ms. Keane also complained that she was unable to find any valid committal warrant on the Circuit Court file. I had made an order permitting her to inspect the Circuit Court file in relation to this matter, to assist her in her appeal. However, as I have made a finding that the Circuit Court erred in law in holding that she was in contempt and in committing her to prison, it is not necessary to consider this matter any further.

Conclusion

69. I am satisfied therefore that the original hearing before the Circuit Court on 10th December 2024 was manifestly flawed and unlawful. Ms. Keane was deprived of her basic constitutional rights to fair procedures and her right to a fair hearing. As a result, the finding of the Circuit Court that she was in contempt of court and the order that she should be imprisoned should be set aside as being unlawful.

70. Moreover, on the substantive issue of whether Ms. Keane breached the order, I am satisfied that Ms. Keane did not deliberately breach the Circuit Court Order of 9th July 2024. I am also satisfied that the Circuit Court Order had a measure of ambiguity which made it unclear to her. I am satisfied that Ms. Keane might have misunderstood the exact import of the order and that she did not deliberately breach the order. Moreover, it is clear that Ms. Keane fully intends to comply with the order of the Circuit Court, as she has taken down the relevant posts on social media. In the circumstances, I conclude that she is not in breach of the Circuit Court Order of 9th

July 2024, and she is not guilty of contempt of court. The application for attachment and committal is refused and her appeal is allowed.