Public Prosecutor v Ong Wee Teck
[2001] SGHC 153

Case Number : CC 26/2001

Decision Date : 29 June 2001

Tribunal/Court : High Court

Coram : Tay Yong Kwang JC

Counsel Name(s) : Lee Lit Cheng and Tan Kiat Pheng (Attorney-General's Chambers) for the public prosecutor; Joseph Liow (Derrick Ravi Partnership) (assigned by CLAS) for the accused

Parties : Public Prosecutor — Ong Wee Teck

Criminal Procedure and Sentencing – Sentencing – Culpable homicide not amounting to murder – Whether imprisonment for life appropriate sentence – Accused suffering from mental illness with history of violent behaviour – s 304(a) Penal Code (Cap 224)

: This is a tragic case of a schizophrenic man killing his elder brother, his caretaker and provider, in their home. The accused, now 40 years old, pleaded guilty to the following charge:

> *That you, ONG WEE TECK sometime between 9.00 p.m. on 7 December 2000 and 1.05 p.m. on 9 December 2000 at Blk 767 Yishun Ave 3 [num]01-315, Singapore, did commit culpable homicide not amounting to murder, by causing the death of one Ong Wei Cheong, male/46 years old, and you have thereby committed an offence punishable under section 304(a) of the Penal Code, Chapter 224.*

The statement of facts set out the circumstances leading to the discovery of the deceased`s body in the ground floor flat, the fateful events in the morning of 8 December 2000 as told by the accused in his statements to the police, the postmortem findings of Dr Teo Eng Swee, a Consultant Forensic Pathologist from the Department of Scientific Services and the opinion of Dr Stephen Phang, an Associate Consultant from the Woodbridge Hospital/Institute of Mental Health, contained in his report dated 30 December 2000. The statement of facts read:

> *1 The accused is Ong Wee Teck, NRIC No. S1493815-Z, male, 39 years of age. He was unemployed and residing at Block 767 Yishun Ave 3 [num]01-315 at the time of the offence.*
>
> *2 The deceased is Ong Wee Cheong, NRIC No. S0180305-J, male 46 years of age. He worked as a hawker helper. He was the accused`s elder brother.*
>
> *3 At the time of the offence, the accused was residing at Block 767 Yishun Ave 3 [num]01-315 (hereinafter referred to as "the flat") with his 15-year-old son, Ong Keng Peang, and the deceased. The deceased was providing for the accused and his son since the accused was not gainfully employed.*
>
> ***The Incident***
>
> *4 Ong Keng Peang last saw the deceased alive on 7 December 2000. After having dinner with the accused and the deceased, Ong Keng Peang left the flat*

at about 9pm. Ong Keng Peang returned to the flat on 8 December 2000 at about 12:30pm but could not gain entry as he did not have the keys and no one answered the door. He then left.

5 Later that day at about 11:30pm, Ong Keng Peang returned to the flat again. This time, the accused opened the door. Seeing that the accused was alone in the flat, Ong Keng Peang asked where the deceased was. The accused told Ong Keng Peang that he had killed the deceased because the deceased wanted to poison him. Ong Keng Peang saw masking tape all around the door frame of the rear utility room, which was the deceased`s bedroom. Ong Keng Peang then asked the accused why there was masking tape on the door frame and the accused said that it was to prevent the stench from coming out of the room.

6 Feeling frightened, Ong Keng Peang left the flat and tried to look for the deceased at the coffeeshop where he worked. When Ong Keng Peang could not find the deceased, he sought help from his friend, Lim Wei Jian. Together with Lim Wei Jian, Ong Keng Peang eventually went to look for his grandmother (the accused`s mother) at about 3:45am on 9 December 2000. He related to his grandmother what had happened and she told him to go to sleep first and report the matter to the police later in the morning.

7 On 9 December 2000 at about 12:30pm, Ong Keng Peang and Lim Wei Jian went to a Neighbourhood Police Post and reported to the police that the accused had said that he had killed the deceased. Ong Keng Peang also informed the police that his father was insane and his grandmother had gone to look for his father at Block 767 Yishun Ave 3 [num]01-315. The police then told him to proceed to the flat to wait for them.

8 The police arrived at the flat at about 1:05pm on 9 December 2000. The iron grille was padlocked and the accused answered the door. The accused later opened the door to let the police in, and told them that there was someone at the rear and asked them to go and take a look. The police found masking tape sealing the entire door frame of the rear utility room. The police saw blood all over in the rear utility room and called for reinforcement.

9 The police had to use force to push open the door to the rear utility [***sic*** *] fully as it was blocked by an unused refrigerator placed behind the door inside the room. The police found the deceased lying naked on the floor in the rear utility room next to the window and there was a lot of blood on the floor and on the walls around him. The body was in a crouching position. The head was on the floor (face down), the forearms and hands were to either side of the head. There was a pool of blood around the region of the head. The thighs were folded under the abdomen. The deceased was pronounced dead at about 1:50pm on 9 December 2000, and the accused was placed under arrest.*

The Accused`s Statements

10 The accused said in his statements to the police that on 8 December 2000 at about 8:00 a.m., the deceased came home after having breakfast. He gave the accused $10 and told the accused to go and have his coffee. The deceased

then went to the bathroom in the kitchen to take a shower. Suddenly, the thought of killing the deceased came into the accused`s mind and the accused went to the kitchen to take a chopper from the wash basin. He then pushed open the bathroom door with force and saw the deceased standing there naked. The accused then slashed the deceased`s head with the chopper. The deceased was shocked and asked him "How can you slash me?" and asked the accused to send him to the hospital. The deceased struggled with the accused and tried to grab the chopper from the accused. The accused continued to slash the deceased with the chopper. The deceased asked the accused why he was attacking him and who would take care of their mother and the accused`s son. After a while, the accused stopped the attack. The deceased was bleeding profusely.

11 The accused then came out of the bathroom and placed the chopper on the kitchen wash basin. He sat down at the kitchen table to smoke a cigarette. The deceased, who was lying on the bathroom floor, got up and went to the rear utility room and closed the door. The accused heard him falling down to the ground in the room. The accused then went to take a bath and used the deceased`s shirt and water to clean the bloodstains in the bathroom and the kitchen. Later, he used masking tape to seal up the door of the utility room.

Post-mortem Findings

12 Dr Teo Eng Swee, the Consultant Forensic Pathologist from the Department of Scientific Services, examined the body at the scene on 9 December 2000 at about 5:45pm and found that the body was cold and rigor mortis was dissipating. Dr Teo conducted an autopsy on 11 December 2000 at about 9:30am and found 25 slash or incised wounds on the deceased`s head, neck and various parts of the body. The left side of the mandible was fractured, related to the incised wound on the left mandibular region of the face. There were also incised wounds of the skull. Dr Teo certified that the cause of death was ***positional asphyxia*** *, which was contributed to by the head injury (intracranial haemorrhage) as well as blood loss (haemorrhage due to incised wounds). Dr Teo is of the opinion that it would be difficult for a person to breathe in the position in which the body was found, and the deceased was probably unable to move himself out of that position because of the injuries he sustained. A copy of the post-mortem report A2039/2000 is annexed at* ***Tab A*** *.*

Psychiatric Assessment

13 The accused was arrested on 9 December 2000 and remanded at Changi Prison Hospital for psychiatric observation from 11 December 2000 to 2 January 2001.

14 Dr Phang is of the opinion that the accused suffered from an acute relapse of ***schizophrenia*** *, a major form of mental illness, at the time of the incident. He was labouring under* ***florid paranoid delusions of a persecutory and bizarre nature*** *, in that he was convinced that governments desired to harm*

him and frame him up, via the employment of computers. At the time of the offence, the accused was convinced that the deceased had the intention to poison him, which then elicited the violent response from him, with fatal consequence. Dr Phang also elicited ***passivity phenomena*** *which are feelings of no longer being in control of one`s own thoughts, feelings or will, and that an external (frequently mysterious) force has superceded the volitional capacity of the individual not to perform certain actions. In this case, the accused felt that the `computers` were controlling his actions at the material time of the killing, as part of an overall scheme by the `government` to frame him for murdering his brother. The accused also felt that people around him knew what he was thinking, or could read his mind, a classic schizophrenic phenomenon known as* ***thought broadcast*** *.*

15 Nonetheless, Dr Phang is of the opinion that, at the time of the killing, the accused remained aware of the nature of his actions and he knew that it was wrong and contrary to law. The accused was therefore ***not of unsound mind at the time of the offence*** *. Dr Phang is also of the opinion that the accused was very likely to have intended to cause death, the fact that such an intention was delusion-driven notwithstanding, and was also sufficiently lucid to know that his act was likely to have resulted in death. However, his act of killing was a product of his relapsed mental illness, which constitutes an abnormality of mind as substantially impaired his mental responsibility for his act in killing his brother. The accused should qualify for the defence of* ***diminished responsibility*** *. A copy of the psychiatric report MR 2379/2000 is annexed at* ***Tab B*** *.*

The accused had two previous convictions. On 9 January 1992, he was fined $200 for disorderly behaviour (under s 20 of the Miscellaneous Offences (Public Order and Nuisance) Act) and $1,000 for committing mischief (under s 427 of the Penal Code).

The sentence

Section 304(a) of the Penal Code (Cap 224) provides for mandatory imprisonment for life or for a term of up to ten years. The section also provides for a discretionary fine or caning.

On the basis of Dr Phang`s psychiatric report on the accused, the prosecution submitted that life imprisonment was the appropriate sentence here. The prosecution said it was looking beyond retribution to the need for protection of the public.

On the other hand, defence counsel submitted that life imprisonment would be too harsh for this accused who did not choose to suffer from mental illness and who was a danger only if he did not take his medication.

The accused is a divorcee with a 15-year-old son. His mother is 68 years old. His father passed away many years ago. He has nine other siblings. He deeply regretted taking his elder brother`s life and could not understand why he had done so.

Defence counsel further argued that while the accused`s family members were less than enthusiastic

about taking care of him, they could apply under the Mental Disorders and Treatment Act at the appropriate time for the accused to be placed in an institution. Although they were not people of means, they could make such an application with the assistance of the Legal Aid Bureau.

Neo Man Lee v PP [1991] SLR 146 [1991] 2 MLJ 369 was a case involving a schizophrenic man convicted under s 304(a) of the Penal Code for having stabbed a woman to death in the changing room of a condominium. The accused there was arrested on 27 September 1984 and after a trial which stretched from 3 October 1988 to 25 May 1989, he was convicted and sentenced by FA Chua J to life imprisonment with effect from the date of his arrest. The judge there said:

> *The doctors have reported that you are suffering from a chronic schizophrenic illness which requires a long-term maintenance drug treatment for an indefinite period and that is to minimize relapses and if you have a relapse, you may pose a danger to yourself and to society. Now, the public must be protected against you and the detention, in my view, should be as long as it is permissible under the law. A long-term imprisonment would also be for your own good because whilst in prison, you will get proper medical care and attention. I will be failing in my duty if I do not sentence you to a long term of imprisonment. You are sentenced to imprisonment for life.*

On appeal to the then Court of Criminal Appeal, Yong Pung How CJ said:

> *Section 304(a) is, on the face of it, rather curiously drafted, because in addition to the sentence to imprisonment for life, there is the alternative possibility of a much lighter custodial sentence up to a maximum of ten years. The only question in the present case was whether the sentence to imprisonment for life was justified.*
>
> *The deputy public prosecutor referred us to a report on sentencing from the Criminal Division of the Court of Appeal in England in the case of **R v Rowland Jack Foster Hodgson** [1968] 52 Cr App R 113 which carried the following statement by MacKenna J, with which we are in broad agreement:*
>
> *`When the following conditions are satisfied, a sentence of life imprisonment is in our opinion justified: (1) where the offence or offences are in themselves grave enough to require a very long sentence; (2) where it appears from the nature of the offences or from the defendant`s history that he is a person of unstable character likely to commit such offences in the future; and (3) where if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.`*
>
> *In the present case, the appellant has been suffering from schizophrenia, a major mental illness, since 1975. Both the psychiatrists` reports, which were considered by the court before sentence was passed, were to the effect that he would require a long term drug treatment for an indefinite period to minimize relapses during which he might pose a danger to society and himself. In fact, the appellant had two relapses in 1980, one in 1983, and one in 1984 when he committed the present offence; and, while he was in remand in 1987 and 1988 he had two more relapses lasting one week and one month respectively.*
>
> *We were of the opinion that the conditions for sentence to imprisonment for life were clearly satisfied in the present case and justified a life sentence. The appellant is clearly a continuing danger not only to himself but also to the*

> *public. The trial judge was of the view, which we shared, that he should be detained as long as it was permissible under the law. We might add that, with remissions, life imprisonment in Singapore may be reduced in practice to no more than 14 years, and the appellant may in fact be out of prison in another seven years.*

Subsequently, in **Abdul Nasir bin Amer Hamsah v PP** [1997] 3 SLR 643 , the Court of Appeal held that a sentence of life imprisonment meant imprisonment for the remaining natural life of the prisoner. After that decision, r 119A of the Prisons Regulations (Cap 247, Rg 2, 1990 Ed) was passed. Under this rule, a Life Imprisonment Review Board reviews the suitability for release of prisoners who have served 20 years of their sentence of life imprisonment at intervals not exceeding 12 months. The Board then submits a written report to the Minister who may, in his discretion, remit, with or without conditions, any part of the sentence of imprisonment to which the prisoners have been sentenced.

Neo Man Lee, Abdul Nasir and the said r 119A were re-visited in the Court of Appeal`s decision in **PP v Tan Kei Loon Allan** [1999] 2 SLR 288 . There, an 18-year-old male pleaded guilty to a charge under s 304(a) of the Penal Code for causing the death of another male by stabbing him with a knife. He was sentenced to seven years` imprisonment and nine strokes of the cane. The prosecution, which had urged the trial judge to impose the maximum permissible sentence of life imprisonment and 24 strokes of the cane, appealed. The Court of Appeal enhanced the sentence to ten years` imprisonment and 15 strokes of the cane. Commenting on ***Neo Man Lee*** `s case, Lai Kew Chai J (delivering the judgment of the Court of Appeal) said (at [para]20):

> *Yong Pung How CJ noted specifically, however, that `with remissions, life imprisonment in Singapore may be reduced in practice to no more than 14 years, and the appellant may in fact be out of prison in another seven years`. That logic is now obviously negated in light of our decision in **Abdul Nasir**, and all the cases in which the life sentence was imposed must be viewed in that context.*

The prosecution pointed out five other cases where accused persons suffering from one form of mental disorder or another were sentenced to life imprisonment under s 304(a) of the Penal Code by the High Court. Three of these were pre- ***Abdul Nasir*** and two were post- ***Abdul Nasir*** . Of these two cases, both involving schizophrenic accused persons, one was convicted after trial and the other was convicted upon his plea of guilt. In the former case (***PP v Carilman Aloysius Joshi*** - CC 43/99) Chan Seng Onn JC said (at [para]32 of the judgment):

> *The accused never accepted that he had any mental illness. It necessarily followed that he would not take his medication voluntarily. I agreed with the submission of the DPP that the accused must be sentenced to life imprisonment so that he would not become a danger to himself and to society. Whilst under confinement in prison, he would receive proper treatment which would be for his own good.*

The accused`s appeal was dismissed by the Court of Appeal on 22 November 1999. Defence counsel pointed out to me that the accused in that case had been admitted to Woodbridge Hospital some 17 times since 1986 and that he was given to consuming alcohol which would make his mental state worse.

I do not consider the comments made in ***Tan Kei Loon Allan*** as having negated or qualified the principles set out in ***Neo Man Lee*** . The earlier Court of Appeal decision made it clear that when the stated conditions were satisfied, a sentence of imprisonment for life would be justified. There, the Court of Appeal agreed with the trial judge that the accused, who was suffering from chronic schizophrenia, should be detained for as long as it was permissible under the law and the maximum permissible was life imprisonment. The concluding comment of the Court of Appeal that Neo Man Lee could in fact be released in seven years was no more than a passing remark alluding to the fact that the prisoner had already been in custody for almost seven years at the time of his appeal. I do not think the Court of Appeal would have sentenced the accused there any differently even if the court was of the view that life imprisonment meant imprisonment for the remaining natural life of the accused. I am fortified in this belief by the dismissal of Carilman`s appeal. I therefore applied the principles in ***Neo Man Lee*** to the facts of the present case.

Here, the accused`s psychiatric history went back to 1986 when he was first treated at a psychiatric outpatient clinic. He defaulted in his treatment and, while in a state of relapse, jumped from a height in 1988, injuring his spine in the process which resulted in partial paralysis of his lower limbs. He resumed psychiatric treatment until July 1991 when he defaulted again. He was admitted to Woodbridge Hospital for two periods of time - from 3 November 1991 to 9 December 1991 and from 14 May 1992 to 4 June 1992 - because of his violent behaviour. He had broken some furniture and assaulted his former wife with a knife.

The psychiatrist was of the opinion that the accused required `ongoing treatment, probably on a lifelong basis` and that the act of killing `was a product of his relapsed mental illness`. The psychiatrist concluded his assessment with the following words:

> *I would add that the future of dangerousness remains significant, and he should be held in a secure setting, possibly by subsequently invoking the Mental Disorders and Treatment Act.*

The accused has shown what he could do in a state of relapse - inflicting 25 incised wounds on another adult male with a chopper. He had also previously attacked his ex-wife with a knife. He had defaulted at least twice in his treatment. He was clearly a continuing danger not only to himself but also to the public.

In the circumstances, I imposed a sentence of imprisonment for life on the accused deemed to commence on 9 December 2000, the date of his arrest.

Outcome:

Order accordingly.

Copyright © Government of Singapore.