Public Prosecutor v Mohd Rasiti bin Sooyat
[2001] SGHC 356

Case Number : CC 60/2001

Decision Date : 28 November 2001

Tribunal/Court : High Court

Coram : Choo Han Teck JC

Counsel Name(s) : Adriel Loh and Terence Tay [Attorney-General's Chambers] for the prosecution; Accused in person

Parties : Public Prosecutor — Mohd Rasiti bin Sooyat

Judgment

GROUNDS OF DECISION

1. The accused aged 48 faced 13 charges relating to sexual offences against his 15 year old daughter. The offences began as early as 1991. All but one of the 13 charges were under s 354 of the Penal Code (Ch 224), namely using criminal force with intention of outraging modesty. The remaining charge (the first charge) was a charge under s 376(1) read with s 511 for attempted rape.

2. The accused was unrepresented. He indicated to the prosecuting counsel that he intended to plead guilty. Consequently, the DPP proceeded only on the first charge, the second, third, seventh and eighth charges. The accused consented to have the remaining charges taken into account for sentencing purposes.

3. The facts relating to the outraging of modesty charges are largely of a similar nature namely, "hugging and touching [the daughters] breasts", "hugging and rubbing [his] groin against [the daughters] buttocks", "rubbing [his] hand against [the daughters] vagina", and "rubbing [his] penis against [the daughters] vagina".

4. The relevant facts relating to the first charge as set out in the Statement of Facts which was admitted by the accused was as follows:

> "17. In 2000, the victim was 14 years old then. On 25 December 2000, during the Muslim fasting month, the accused persuaded the victim to sleep with him and his wife and the victim agreed. At about 9.30pm, the victim went to sleep on her parents bed. Her parents only went to bed sometime later.
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> 18. Sometime between 9.30pm on 25 December 2000 and 5.30am on 26 December 2001, the victim was awakened to find that her right leg had been raised and that the accuseds legs were under her. The victim then felt the erect penis of the accused pushed under her panties and at her vagina as the accused attempted to penetrate her vagina. All this time, the accused was under her and moving his penis in a thrusting movement against the vagina of the victim. The victim then felt the penis of the accused penetrate slightly into her anus. The accused continued to thrust his penis at the vagina/anal region of the victim until he ejaculated. The accused then wiped the semen off the buttocks of the victim and went back to sleep."

5. The accused had no antecedents although it was noted that the present charges related to incidents as far back as 1991 when the daughter was only five years old. The wife of the accused

works as a cleaner, like himself, earning $800 a month. His eldest son is 23 years old, the second son is 19 years old. The third child is the daughter in question. There were no other significant facts either in mitigation or aggravation of the offences save that the accused appeared contrite and remorseful.

6. In respect of the outraging of modesty charges, I sentenced the accused to one years imprisonment and two strokes of the cane on each charge with the terms of imprisonment to run concurrently but consecutive to the term of imprisonment in respect of the first charge for which I sentenced him to four years and four strokes of the cane. In sentencing the accused especially in respect of the first charge, I took into account the overall circumstances and the appropriate sum total of the terms of imprisonment. Although the nature of the first charge is a serious one namely attempted rape, the facts and circumstances appear to me to be a lower end case of attempted rape and, perhaps, closer to the offence of outraging of modesty, albeit of a more serious instance. In typical cases of attempted rape, the actual offence was frustrated usually because the victim resisted successfully, or the act was interrupted by the intervention of rescuers. In this case, the daughter was fully aware of what was going on but made no attempt to resist. There was no intervening factor that prevented the accused from completing the act of rape. He appeared physically capable as the facts revealed that he ejaculated on the girl. Furthermore, given the long history, this was the only incident involving an attempted rape. The facts and circumstances of this case were, therefore, quite unlike those of the cases cited to me by the prosecuting counsel. For the above reasons, I am of the view that a sentence of a term of imprisonment of four years and four strokes of the cane was appropriate.

Sgd:

Choo Han Teck
Judicial Commissioner

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