Public Prosecutor *v* Tan Jun Hui
[2013] SGHC 94

Case Number : Criminal Case No 5 of 2013

Decision Date : 30 April 2013

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Winston Man and Sellakumaran (Attorney-General's Chambers) for the Public Prosecutor; Mahtani Bhagwandas (Legal Standard LLP) for Accused.

Parties : Public Prosecutor — Tan Jun Hui

Criminal Law – Offences – Rape

Criminal Law – Offences – Attempted Sexual Assault

Criminal law – Offences – Armed Robbery

Criminal Procedure and Sentencing – Sentencing

30 April 2013

Choo Han Teck J:

1 The accused, Tan Jun Hui, pleaded guilty to three charges of offences committed against the complainant, a 21 year old prisons officer at the material time. The offences took place on the same day and time, namely 3.16am on 16 November 2010 at Choa Chu Kang Street 51. The accused was then aged 27 years and unemployed. It was not disputed that the three offences took place in a span at about five minutes. It was also not disputed that the offences were committed by the accused wielding a knife with a 13cm (almost six inches) blade, and that the complainant was thus put in fear of hurt.

2 The first charge ("C1") was for armed robbery by night in which he robbed the complainant of two cell phones and cash of $200. The cell phones were valued at $400 and $300 respectively. This offence is punishable under s 392 read with s 397 of the Penal Code, (Cap 224. 2008 Rev Ed) (the "Penal Code"). The second charge ("C2") which the accused pleaded guilty to was for an aggravated attempt to sexually penetrate the complainant's mouth with his penis. This was an offence under s 376(1)(a) and punishable under s 376(4)(a)(ii) read with s 511 of the Penal Code. Lastly, the accused pleaded guilty to a charge of rape ("C3"), an offence under s 375(1)(a) and punishable under s 375(3)(a)(ii) of the Penal Code.

3 The complainant submitted a victim impact statement stating that she was disturbed by the events till this day. The medical reports showed that she suffered from a post traumatic stress disorder but after the third appointment on 24 January 2011 at Changi General Hospital, she did not attend subsequent appointments.

4 The prescribed punishment for C1 is an imprisonment of not less than three years and not more than 14 years and with caning of not less than 12 strokes. The prescribed punishment for C2 is imprisonment for eight years and not more than twenty years with not less than 12 strokes of the

cane. However, as this was a charge for an attempt, under s 511 of the Penal Code, the longest term of imprisonment may not be more than half that of the longest term prescribed. Hence, the longest term of imprisonment for this charge may not exceed ten years with a minimum of eight years as prescribed under s 376(4)(a)(ii). The prescribed punishment for C3 is imprisonment for a term not less than eight years and not more than 20 years with not less than 12 strokes of the cane.

5 The offence of aggravated sexual assault covers a range of conduct, including oral sex without consent and in this case, the facts showed that the act was attempted but not performed. I also note Mr Mahtani's plea in mitigation on behalf of the accused that the offence took place in under five minutes. I am of the view that short duration in either robbery or sexual offences hardly make for mitigation but on the other hand, if the victim was put to the stress of a long and traumatic experience the sentence would be heavier. Mr Mahtani submitted that the amount involved in the robbery charge was only $900. While that can be taken into consideration, it would have been more relevant if the accused had made restitution. C1 in the present case would merit about four to six years imprisonment. Taking the case in entirety, I decided to grant him the leniency of the lower term of four years imprisonment for that charge. On the facts and circumstances of this case, I am of the view that the totality of the prison sentences should be within the range of 13 to 15 years. There would also be the mandatory sentences of caning, subject to the maximum of 24 strokes.

6 I therefore sentence the accused in respect of the charge marked C1 to four years imprisonment and 12 strokes of the cane; in respect of the offence in charge marked C2 to a term of imprisonment of ten years and 12 strokes of the cane; and in respect of the charge marked C3 to a term of imprisonment of ten years and 12 strokes of the cane. The terms of imprisonment under C2 and C3 shall run concurrently with effect from 28 November 2010, and to run consecutively from the term of imprisonment under C1.

7 The total terms of imprisonment is therefore 14 years with effect from 28 November 2010 and the total number of strokes of the cane shall be 24.

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