IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2015] SGHC 189

Criminal Case No 24 of 2014

Public Prosecutor

v

Jafar Shatig bin Abdul Karim

GROUNDS OF DECISION

[Criminal Law] — [Statutory offences] — [Misuse of Drugs Act]

Version No 2: 27 Oct 2020 (22:39 hrs)

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Public Prosecutor
v
Jafar Shatig bin Abdul Karim

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High Court — Criminal Case No 24 of 2014
Choo Han Teck J
1–4, 8–10 July, 15 September 2014, 6 July 2015

27 July 2015.

Choo Han Teck J:

1 A bus driver named Parameswaran a/l Devandran ("Parameswaran") (PW17) testified that at about 8pm on 5 January 2012, he picked up three passengers at Sri Pulai in Johor, Malaysia. The first to board was Tanaletchumi a/p K Murugesu ("Tanaletchumi") (PW27) and the second was a person who has only been identified as "Letchumy". After picking up the two passengers, Parameswaran saw the accused waving for him to stop. He did so and the accused then boarded the bus. Parameswaran testified that the accused told him that he was going to see a friend at Jalan Kayu in Singapore.

2 Tanaletchumi, the first passenger, testified that she saw the accused move to the back of the bus where he placed a black shoulder bag on one of the seats. Tanaletchumi recounted that the accused then "walked up and down twice", using the phrase to describe the accused's actions of walking up and down the aisle of the bus. Tanaletchumi saw the accused pressing on a seat

which she subsequently identified to the Central Narcotics Bureau ("CNB") officers. This was the spot referred to as "seat A".

3 When the bus arrived at the Singapore Customs, the accused and Letchumy alighted. Tanaletchumi then asked Parameswaran for the accused's name and asked him what the accused had put inside the seat. Parameswaran went to the seat and found three black bundles inside the seat after pulling off the seat cover. When he saw this, Parameswaran alighted and notified a police officer, Police Constable Nur Aisyah bte Ahdari (PW4) ("PC Nur Aisyah"). PC Nur Aisyah boarded the bus and saw the three black bundles on top of seat A. Lance Corporal Ho Ming Yong (PW5) was the next officer to board the bus and he too saw the three black bundles. He reported the matter to his superior, Sergeant Muhammad Faizal bin Noor Hashim ("Sgt Faizal") (PW6).

4 Sgt Faizal boarded the bus with Sergeant Shahrin bin Ahmad (PW7) and Parameswaran. The two officers alighted after seeing the three black bundles and on instructions from their superiors, boarded the bus again and directed Parameswaran to drive to the bus bay to pick up his three passengers. But only Tanaletchumi and Letchumy boarded at the bus bay because the accused had taken off in another bus. Tanaletchumi testified that when they were all at the bus bay, the accused seemed to be in fear and asked her why the bus was taking so long to get to the bus bay.

5 The accused did not vanish. He telephoned Parameswaran shortly after Parameswaran left the Woodlands Checkpoint. The accused told him that he (the accused) would be waiting at the bus stop opposite the Sheng Siong Supermarket near the Woodlands Checkpoint. By this time, the immigration officers were on alert. Four officers hid in the bus and others followed in

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another vehicle. All this took place between 10pm to 10.20pm. The bus arrived at the bus-stop about five to ten minutes later and Parameswaran told one of the immigration officers, Staff Sergeant Fadzil Bin Zaharen ("SSgt Fadzil") (PW10), that the accused was approaching the bus. Senior Assistant Commissioner Kent Goh Mui Heng (PW11) and SSgt Fadzil came out of their vehicle and walked to the accused before he could board the bus. They took the accused back to the Woodlands Checkpoint and notified the CNB. In the meantime, the bus was searched. SSgt Fadzil and Staff Sergeant Muhammad Arifin bin Mohamed Eusuff (PW9) discovered more black bundles in another seat at the back of the bus ("seat B"). They did not touch the bundles and immediately informed the CNB officers. Shortly after, four CNB officers boarded the bus. One of the CNB officers, Staff Sergeant Sudin bin Mamat (PW15), found seven more black bundles in the seat cushion of seat B.

6 The accused's urine sample taken at 3.40am on 6 January was analysed and found to contain morphine and methamphetamine. The three black packets found in seat A and the seven black packets found in seat B were unwrapped and found to contain 17 packets of granular substances. Those substances were weighed in the presence of the accused and later ascertained to be 56.17g of diamorphine. The accused was thus charged for trafficking in 56.17g of diamorphine under s 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("the MDA"), which is an offence punishable under s 33(1) of the MDA.

7 The prosecution sought to introduce six statements made by the accused under s 22 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed)

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but the admissibility of these statements were challenged by the accused who claimed that they were not made voluntarily. The statements were all recorded by the investigating officer, Deputy Superintendent of Police Tan Seow Keong ("DSP Tan") (PW33) (who was then an Assistant Superintendent) through the interpretation of a Tamil interpreter, Manickam s/o Pr Periasamy. The statements are:

(a) first statement recorded on 6 January 2012 at 12.42am,

(b) second statement recorded on 11 January 2012 at 12.30pm,

(c) third statement recorded on 16 January 2012 at 2.35pm,

(d) fourth statement recorded on 17 January 2012 at 10.23am,

(e) fifth statement recorded on 18 January 2012 at 2.40am, and

(f) sixth statement recorded on 19 January 2012 at12.15pm.

8 The accused did not allege that the interpreter threatened him. His allegation was that DSP Tan threatened him on 9 January 2012, which was a day when no statement was recorded as the accused was unwell. He was examined by a doctor that day and was given some medication for his gastric pain. The accused claimed that DSP Tan told him that he was facing the death penalty and that if he did not co-operate his girlfriend (who was pregnant) might be charged. In respect of the incriminating parts of the statements, the accused asserted that these were not what he said but the portions had been either added or "mis-typed" by DSP Tan. I found his allegations regarding the threats to be poorly made out and not persuasive. There was no evidence to show how his girlfriend could even be connected to the drugs. The accused also claimed that he was suffering from drug withdrawal at the material time

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but this claim was contradicted by DSP Tan and Manickam as well as the absence of medical evidence. The evidence narrated by him did not convince me that there was any threat or that the accused laboured under any threat. I therefore admitted the six statements, and at the end of the prosecution's case I called upon the accused to enter his defence.

9 The accused pleaded ignorance in defence. He claimed that he boarded the bus because Parameswaran requested his help to transport workers and that he did not know that there were drugs in the bus. He further explained that he was pacing up and down the bus only to look for rubbish. The accused's paltry evidence was barely coherent.

10 In my view, it was important to find that the accused had hidden the drugs in seat A and seat B. Although no one saw him place the drugs there, Tanaletchumi testified that she saw the accused pressing down on seat A. This supports the prosecution's submission that the accused knew this spot had the hidden parcels. Importantly, the first statement by the accused, which had been admitted, contained a confession by him that he was the one who put the ten bundles into seats A and B. He admitted that he did it for RM10,000. The details set out in paragraph 10 of the accused's first statement as to how he removed the sponge material from the two seats in Parameswaran's bus and placed the bundles there are information that is only within the knowledge of the courier of those drugs. The accused also admitted in the subsequent statements that he had brought the bundles to Singapore. Further, there was other important evidence corroborative of this. One was the seizure of the "Adidas" sling bag (P93) with the empty plastic bag in it. More importantly, the sponge material from the seats was found in the "Adidas" sling bag that

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the accused admitted belonged to him. Forensic evidence confirmed that the sponge material came from the seats. I was therefore satisfied that the accused had been in actual possession of the drugs and had placed them in the two seats after removing the sponge material.

11 As I have found that the accused was in possession of the drugs, the presumption of knowledge under s 18(2) of the MDA will apply. The next question is then whether the accused successfully rebutted this presumption. As the accused's defence was that he did not even bring the drugs onto the bus, there was little evidence adduced by him during trial on whether he knew that the substance was drugs. But his statements, especially the first and the sixth statements, revealed that he, at the very least, suspected that the bundles contained drugs because the person who tasked him the job of bringing the bundles to Singapore was unwilling to do so himself. He also stated that he was promised a substantial sum of RM10,000 in cash if he delivered the ten bundles to Singapore.

12 There being no credible account by the accused to discredit the very statements that he had made, I found that the presumption against the accused under s 18(2) of the MDA had not been rebutted. Accordingly, I found him guilty as charged and convicted him. The evidence showed that the accused acted in a manner that made him no more than a courier. The learned Deputy Public Prosecutor ("DPP") Eugene Lee did not challenge this. DPP Lee then tendered a certificate to the court to certify that the accused has substantively assisted the CNB in disrupting drug trafficking activities within or outside Singapore. Exercising my discretion under s 33B(1)(*a*) of the MDA, I

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sentenced the accused to life imprisonment, with effect from 5 January 2012, and to 16 strokes of the cane, instead of imposing the death penalty.

- Sgd -
Choo Han Teck
Judge

Eugene Lee Yee Leng and Sanjna Rai (Attorney-General's Chambers) for the prosecution.
Johan bin Ismail (Johan Ismail & Company), Skandarajah s/o Selvarajah (S Skandarajah & Co) and Sim Jin Simm Alina (Axis Law Corporation) for the accused.

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