

Public Prosecutor v Lim Boon Seng
[2004] SGHC 113

Case Number : CC 20/2004

Decision Date : 28 May 2004

Tribunal/Court : High Court

Coram : Tay Yong Kwang J

Counsel Name(s) : Winston Cheng and Jason Chan (Deputy Public Prosecutors) for prosecution;
Accused in person

Parties : Public Prosecutor — Lim Boon Seng

Criminal Law – Offences – Culpable homicide not amounting to murder – Penal Code (Cap 224, 1985 Rev Ed) s 304(b).

Criminal Procedure and Sentencing – Mitigation – Culpable homicide not amounting to murder – Accused not aggressor – Accused not armed in advance – Accused demonstrated instant and genuine remorse.

28 May 2004

Tay Yong Kwang J:

1 The accused pleaded guilty before me to a charge of culpable homicide not amounting to murder under s 304(b) of the Penal Code (Cap 224, 1985 Rev Ed). On 5 November 2003, at about 11.15am, in front of Block 146 Teck Whye Avenue, he caused the death of a 42-year-old man, Keng Yew Cheng ("the deceased"), by stabbing him in the chest with a knife, with the knowledge that it was likely to cause such bodily injury as was likely to cause death.

2 The accused was a durian seller operating from a makeshift stall at the wet market in the said Block 146. He is married to an Indonesian woman. The deceased was a part-time driver.

3 The accused and the deceased were friends. The accused got to know the deceased when he was previously working for the deceased's brother. Between September and October 2003, the accused borrowed a total of \$2,000.00 from the deceased who charged him monthly interest of between 10% and 15%. At the time of the incident, the accused owed the deceased \$1,800.00.

4 At about 10.00am on 5 November 2003, the accused was with his wife at his durian stall. He telephoned the deceased to inform him that he was not able to pay back the debt and asked for more time to make the repayment. The deceased was unhappy and scolded him with vulgarities. The deceased then told the accused to wait for him at the market as he would be going there.

5 At about 11.15am, the deceased arrived at the said market while the accused was at the durian stall talking with his friend, Pang Hock Guan. The deceased began shouting vulgarities at the accused who implored him in Hokkien to give him one or two days more to make the repayment. Nevertheless, the deceased went up to the accused and started hitting him with his fists. The accused tried to block the blows with his arms and backed away from the deceased. However, the deceased continued to advance towards him and to attack him.

6 After retreating a short distance, the accused noticed a knife lying on a metal cabinet in a nearby vegetable seller's stall. He grabbed the knife and pointed it at the deceased. He extended his arm and stabbed the deceased once in the chest. When the deceased collapsed, the accused threw

the knife onto a grass verge.

7 The accused then used a towel to press on the deceased's wound. He also shouted for help and told Pang Hock Guan to call for the police and an ambulance.

8 Subsequently, the accused went to the grass verge and covered the knife with a piece of newspaper. He then told his wife to throw the knife away. She wrapped the knife in the newspaper and discarded it near a lamp post some 29m away.

9 At 11.34am that day, the deceased was pronounced dead by a paramedic. A post-mortem conducted on 6 November 2003 revealed that the deceased had died from acute haemorrhage due to a stab wound to the heart. The 2.5cm by 0.7cm stab wound was about 8cm deep.

Antecedents

10 The accused had no criminal record.

The mitigation plea

11 The accused was an odd-job labourer. He has a five-year-old son. He lived with his wife and his father, who is more than 70 years old, in a three-room Housing and Development Board flat in Teck Whye Avenue. As he was an odd-job labourer, he would often go to Mandai to pick durians and then sell them along the pavement of Block 146.

12 When the deceased was assaulting him, the accused begged him to stop even as he retreated from the attack. He did not want to have a fight with the deceased. The knife was an old, rusty one used by the owner of the vegetable stall for his trade. He only wanted to use it to frighten the deceased.

13 When the police arrived at the scene, he immediately admitted what he had done and told the police what had happened to the knife. He co-operated fully with the investigators. He asked his wife to retrieve the knife which he had told her earlier, while in a state of fright, to throw away in a nearby rubbish dump.

14 It did not occur to him to flee from the scene because he only wanted to save the deceased after he saw him collapse onto the floor. He got his friend, Pang Hock Guan, to go to a clinic nearby to get a doctor to attend to the deceased and the doctor did go to the scene.

15 He was remorseful and pleaded for leniency.

The decision of the court

16 Section 304(b) of the Penal Code provides for a maximum of ten years' imprisonment or a fine or both. Many of the sentences meted out by the courts under this provision fall within the range of six to ten years.

17 In this case, the accused was clearly not the aggressor. He was trying to make an honest living on the morning of 5 November 2003. He called the deceased over the telephone merely to

inform him of his financial straits and to request more time for repayment of the loans for which he was charged exorbitant interest rates. He did not provoke the deceased in any way.

18 It was the deceased who chose to go to confront the accused about the debt and who resorted to vulgarities and violence without provocation. He gave the accused no quarter and continued the punching despite the accused's reluctance to retaliate by stepping backwards each time and in spite of his plea to talk things over and grant him indulgence of another two days. The deceased was of bigger build than the accused.

19 The accused did not arm himself in advance despite knowing the deceased was going to his durian stall in a most foul mood. It was during this unprovoked and unrelenting attack that he saw, quite unfortunately, the rusty knife with a blade of some 9cm and took it to try to frighten the deceased away. The knife was not placed there as a weapon. The depth of the stab wound was probably contributed to by the deceased's aggressive advance towards the accused.

20 The accused's instant and genuine remorse was clearly shown by his actions immediately after that one fatal stab. He was truly concerned for the deceased. He tried to stanch the bleeding although he had also suffered injuries inflicted by the deceased. He shouted to his friend to get medical help for the deceased. He did not try to flee from the scene.

21 He did ask his wife to throw the knife away but that was probably said in a state of shock and panic rather than as a cold, calculated move to thwart justice. When the police asked him to co-operate with them, he told his wife to retrieve the knife from the rubbish dump.

22 He was fully co-operative during the investigations and has pleaded guilty at the earliest opportunity. He also had a clean record.

23 In these circumstances, although it is extremely sad that a life was lost over a debt of \$1,800.00, the accused deserves whatever mercy the law is able to give him. I therefore sentence the accused to imprisonment of three years and six months, backdated to commence on 5 November 2003.

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