Public Prosecutor v Tan Ping Koon and Another
[2004] SGHC 205

Case Number : CC 27/2004

Decision Date : 09 September 2004

Tribunal/Court : High Court

Coram : Tay Yong Kwang J

Counsel Name(s) : David Khoo and Magdalene Koh (Deputy Public Prosecutors) for prosecution; Subhas Anandan and Anand Nalachandran (Harry Elias Partnership) for first accused; Lee Teck Leng (Lee Associates) and Chen Chee Yen (Tan Peng Chin LLC) for second accused

Parties : Public Prosecutor — Tan Ping Koon; Chua Ser Lien

Criminal Law – Statutory offences – Kidnapping – Meaning of Abduction – Section 3 Kidnapping Act (Cap 151, 1999 Rev Ed).

Criminal Law – Statutory offences – Kidnapping – Whether demand for ransom necessary to establish offence – Section 3 Kidnapping Act (Cap 151, 1999 Rev Ed).

Criminal Procedure and Sentencing – Sentencing – Forms of punishment – Whether to impose imprisonment for life or death penalty – Whether to impose caning.

9 September 2004

Tay Yong Kwang J:

The charges

1 Tan Ping Koon ("the first accused") claimed trial to the following charge:

> You, Tan Ping Koon, on the 25th of December 2003, at about 4.30 pm at No XX YY Avenue, Singapore, together with one Chua Ser Lien, and in furtherance of the common intention of you both, abducted one S (Date of Birth: 28.06.1996), with intent to hold the said S for ransom, and you have thereby committed an offence punishable under section 3 of the Kidnapping Act, Chapter 151, read with section 34 of the Penal Code, Chapter 224.

I have omitted the house number and street name, and used a pseudonym "S" as the name of the victim as she is only eight years old now and still resides in that house which I shall refer to as "the house in question".

2 Chua Ser Lien ("the second accused") claimed trial to a similar charge except that in his charge, the name of the first accused in the charge above has been substituted with that of the second accused and *vice versa*.

The Statement of Agreed Facts

3 The Prosecution and the two teams of defence counsel for the accused persons managed to draw up a Statement of Agreed Facts, thereby obviating the calling of dozens of witnesses to testify in court, including the victim and two of her young siblings. By this very pragmatic and focused approach to fulfilling their duties to the court and to their respective clients, they have saved a lot of time for the witnesses, the investigators and the court and probably spared the young witnesses

some anxiety as well. I am therefore deeply appreciative of the pre-trial work done by Deputy Public Prosecutor David Khoo, Mr Subhas Anandan and Mr Lee Teck Leng, the respective lead counsel for the Defence, and their assistants. I am pleased to note that such a commendable attitude has always been characteristic of Mr Subhas Anandan and Mr Lee Teck Leng whenever they appear in my court.

4 I now highlight the salient points in the Statement of Agreed Facts, which incorporated, by reference, the statements made by both accused persons to the police during the investigations.

5 The first accused is now 35 years old while the second accused is now 42 years old. They both resided in the Tampines public housing estate and have known each other for about seven years. Both were self-employed. In late 2003, both of them were heavily in debt, each owing his creditors about half a million dollars or more.

6 In early December 2003, they met to discuss ways of settling their huge debts. At first, they toyed with the idea of trafficking in drugs but decided that was too risky and would not give them the returns they needed to solve their financial woes. The second accused then suggested kidnap as an alternative and the first accused agreed to join him.

7 About a week before Christmas 2003, with the pressure from creditors and from business expenses building up, the two friends "decided to go for it". They reckoned they required about $2m to settle their problems and therefore begun to discuss the possible targets who could afford to pay this amount. They eventually narrowed the possibilities to two companies.

8 Later, they went to the then Registry of Companies and Businesses in International Plaza and, with the assistance of the staff there, obtained the print-outs on the particulars of the two companies, which included the residential addresses of their directors. The first accused noted that one of the companies, a public one, had an impressive paid-up capital.

9 The next day, they drove to the residential addresses of the respective managing directors of the said companies to do a survey. After some time, they decided to zero in on the managing director of the public listed company. Through a childhood friend, the second accused had heard about that managing director and was confident he could afford to pay a ransom of $2m. The childhood friend used to be a business partner of the said managing director. They then did a stake-out on the business premises of that company and the home of that managing director to confirm that he was living at that residential address by noting the presence of the same chauffeur-driven luxury car in both locations. The said managing director, whom I shall refer to as D, is the father of S and the residential address is the one stated in the kidnapping charges.

10 The accused persons decided to kidnap one of D's children. They would keep the kidnapped child in the first accused's flat and then ask D for a ransom of $2m. They planned to use the second accused's car, a silver-coloured Toyota RAV-4 with the registration number SDS 6603Z. To prepare for the kidnap, they went to several shops in the Ubi industrial estate and purchased wrapping papers and sunshades to try to disguise the RAV-4, masking tape, a screwdriver, two black caps and nylon string. They also went to make false number plates for the RAV-4, coming up with the fictitious registration number SDM 4569 (according to the second accused) or SBM 4569Z (according to the first accused). All these items were kept in the RAV-4.

11 On 23 December 2003, the second accused spent $400 buying 4D lottery tickets on the real and the fictitious registration numbers (6603 and 4569). He informed the first accused that if any of the numbers should strike on Christmas eve, they would have a windfall of almost $200,000 and would

then call off the kidnap. However, luck eluded them.

12 On Christmas day, the second accused contacted the first accused around noon and they decided to drive to the house in question to have a look. They noticed the family's multi-purpose vehicle ("MPV") parked along the road outside the house. D's luxury car was not around. The gates were opened and there were three or four female adults talking in the garden. There were also two or three children in the compound of the house. They decided it was a good time to kidnap any of the children. They then drove to a small lane not too far away to change the number plates of the RAV-4 and to "decorate" or disguise it by pasting wrapping paper on the doors and the spare tyre cover. They also placed the sunshades on the windows and the rear windscreen. From there, the first accused took over as the driver as he was "too fat for fast movement".

13 They returned to the house in question but the children could no longer be seen. They parked the RAV-4 behind the MPV. The second accused used the screwdriver to release the air from the MPV's left front and rear tyres and then returned to his car to have a cigarette. He told the first accused to be ready by putting on his black cap and having the car in "drive" gear. At about 4.30pm, he walked to the house in question.

14 D's family was preparing for a Christmas party to be held in the house later that evening. The gates were left ajar as the catering assistants and the event co-ordinator were setting up the buffet tables and the decorations. D was not home at that time. His wife was on the second level of the three-storey house. Three of their children were in the living room. Two of them were seated on the floor playing electronic games on the television set while S was seated on the sofa behind them.

15 As the second accused walked into the compound of the house, he used a handkerchief to mask the lower half of his face. He opened the main door leading to the living room and saw the three children. He decided to grab hold of S because she was nearest to him. He then carried S and dashed out of the house with her. When S started screaming, he used his left hand to cover her mouth. The first accused heard the screaming and quickly pulled the RAV-4 to the front entrance of the house. The second accused opened the rear door and jumped into the back seat with S. The car then sped away towards Yio Chu Kang Road.

16 Coincidentally, as the second accused was making his way into the house earlier, Ang Teck Ann arrived at the house in his van with his wife, Chua Siew Eng and her colleague, Ho Yen Yen. Both ladies worked as catering assistants and were there to help set up the buffet. Ang Teck Ann was giving them a lift there. After letting the two ladies alight, Ang Teck Ann drove off. As they walked into the compound of the house, the second accused dashed out carrying S.

17 Ho Yen Yen and one of S's siblings noticed that the getaway car was white in colour. In addition, Ho Yen Yen managed to catch a glimpse of its registration number plate which, she believed, was SDN 4569. In the meantime, S's mother, who had heard the commotion, went down to the ground floor and was informed by her two children and the catering assistants about what had happened. She immediately called the police who received the following message:

> My daughter was kidnapped. We were in the middle of a party when a man came in a white Mercedes and took her away in the vehicle. The vehicle is SDN 4569. It is going towards Punggol direction.

It was unclear who told her the getaway car was a Mercedes.

18 Ho Yen Yen told Chua Siew Eng to alert her husband about the getaway car. Chua Siew Eng then called her husband on his mobile phone, told him about the incident and asked him to look out for a car bearing the number 4569. He was then in the vicinity of Yio Chu Kang Road. About that time, the speeding RAV-4 overtook his van, made a U-turn and headed for Pasir Ris. Ang Teck Ann followed the RAV-4 in his van.

19 Inside the RAV-4, the second accused wanted to use a T-shirt to cover S's face but she told him not to do so, promising him she would not tell her mother. He also wanted to use masking tape on her mouth but did not do so as she said she was afraid. They spoke to each other casually. She told him she did not know her father's name when he asked her about it.

20 The first accused then informed the second accused that there was a white vehicle tailing them and that that vehicle had earlier dropped off two passengers outside the house in question. After noticing that the white vehicle was following their every move, they decided to abandon S. Along Pasir Ris Street 72, they stopped the RAV-4 and the second accused opened its left rear door and told S to alight. The RAV-4 then sped off leaving the barefooted S standing by the roadside, scared and crying.

21 Ang Teck Ann pulled up in his van and told S to get on board. After she did so, he tried to chase the RAV-4 but lost sight of it. He then returned to the house in question with S. By that time, the police and S's father were at the house.

22 In the meantime, the two accused persons brought the RAV-4 to a multi-storey carpark where they removed all the "decorations" and replaced the false registration number plates with the genuine ones. They were a bit disappointed that the said white vehicle had foiled their plans. After that, they went to the first accused's office in the cargo complex of Changi International Airport where they burnt the false number plates and some of their kidnapping paraphernalia in an incense bin. They then returned to their respective homes.

23 That night, they met again to discuss the incident. They wondered whether S's family had reported the incident to the police. They decided to call D the next day to ask him for money in return for the safety of his family.

24 On 26 December 2003, the second accused went to purchase two phone cards. He then went to have lunch with the first accused. After lunch, the first accused called D's company and managed to obtain D's handphone number from one of the staff. The first accused then called D and told him he was the one who kidnapped his daughter the day before. He claimed that his boss had instructed him to kill D's children in return for a reward of $5m but he could not bear to do so as S was a lovely child. He said he could have pushed S out of the car the previous day if he had wanted to kill her. He claimed that his gang wanted to escape and he asked D to give him $1m. D replied that $1m was not a small amount and asked him to call again at night. D then reported the matter to the police.

25 When the first accused called D again that night, D told him he needed time to raise the $1m from his friends. When D asked him who the mastermind of the kidnap was, he was told that the boss was from a foreign land. D then asked him to call again in about an hour.

26 At about 9.43pm, the first accused called D to ask how much money he had managed to raise. When D said he needed more time, the first accused told him he was in urgent need of funds as

he intended to return to his homeland as soon as possible. He reminded D he could have finished off his daughter with a knife but did not do so. This time, D was told that the boss behind all this was a local. D promised to do his best to raise as much money as possible. He asked the caller to call again between 10.30pm and 11.00pm that night.

27 At about 11.40pm, the first accused called D to ask how much money he had mustered, D told him he could raise $30,000 to $40,000 only. The first accused sounded annoyed and told D he would receive $5m for kidnapping his children and $2m for killing one of them. He said the sum raised was not enough for him and his gang to share and added that D's life should be worth more than his. D tried to calm him down by promising to do his very best to raise more money, adding that he was grateful his daughter was not harmed and he would be told who the mastermind was after paying the money. He asked the caller to call him again after noon the next day.

28 On 27 December 2003, around noon, D got another call. He managed to persuade the caller to accept $70,000. The caller then told D he would call again to give further instructions. With the assistance of police officers, D prepared and packed $70,000 into a black briefcase. The serial numbers of the notes had been recorded on five pieces of paper.

29 At about 2.00pm, D was told by the caller to leave his house alone immediately. D did so and while he was driving along the Pan Island Expressway, the caller called to instruct him to make a U-turn towards the city. He was then directed to stop at lamppost 295 and to proceed to the nearby emergency telephone booth number 707 and to leave the briefcase containing the money there. He was then told to return home.

30 The first accused, who had positioned himself on an overhead bridge overseeing the said telephone booth, signalled to the second accused, who was hiding in some bushes in the vicinity, to retrieve the briefcase from the telephone booth. The second accused did so and then walked back to the public carpark at Block 528 Bedok North Street 3 where they had parked the RAV-4. He took out the money and discarded the briefcase at a rubbish collection centre nearby. He then drove the car to pick up the first accused at their designated meeting point at Block 722 Bedok Reservoir Road. They left together for lunch at a coffee shop at Block 164 Tampines Street 12.

31 After lunch, the pair walked back to the car where they were pounced on by police officers and arrested. The police officers recovered a bundle of $1,000 and $50 notes amounting to $10,000 near the front seats of the car and six pieces of $10,000 notes from a bag in its boot. The serial numbers of these notes matched those written down by the police earlier.

32 Upon this Statement of Agreed Facts, the Prosecution closed its case.

No case to answer

33 Both counsel for the accused persons then requested a day's break in the proceedings to prepare their submissions of no case to answer on the kidnapping charges. They were of the view that the facts contained in the Statement of Agreed Facts did not disclose an offence under s 3 of the Kidnapping Act (Cap 151, 1999 Rev Ed) as no demand for ransom had been made before S was released. I granted the request and adjourned the trial to Wednesday, 8 September 2004.

34 However, in the afternoon of Tuesday, 7 September 2004, I was informed that both defence counsel had called to say that their clients would plead guilty to the respective kidnapping charges.

Plea of guilt

35 On Wednesday, 8 September 2004, both defence counsel informed the court that they had looked further into the law relating to the kidnapping charges and were now satisfied that an offence under s 3 of the Kidnapping Act had been made out on the agreed facts. They said their clients would plead guilty as charged and would accept the Statement of Agreed Facts as it stood. Both accused persons confirmed that they were changing their pleas. They pleaded guilty to the respective kidnapping charge and were convicted accordingly.

36 Each of the two accused persons also faced one charge under s 384 read with s 34 of the Penal Code (Cap 224, 1985 Rev Ed) of having extorted $70,000 from D between 26 and 27 December 2003 by threatening to cause harm to his family members. These extortion charges were admitted and taken into consideration for sentencing after the two accused persons were convicted on the kidnapping charges.

Antecedents

37 Both accused persons had no previous convictions on record.

Mitigation for the first accused

38 Mr Subhas Anandan submitted that both accused persons should be regarded as having pleaded guilty at the earliest opportunity as they did not do so on the first day of trial only because of the then unresolved legal issue. The first accused agreed to have a Statement of Agreed Facts thereby sparing the witnesses, especially the eight-year-old S, from having to testify in court. That was a clear demonstration of his remorse.

39 The first accused lived with his nine-year-old daughter in a flat. His wife left him in July 2003 due to some matrimonial problems. That was why the plan was to hold S in his flat after the abduction.

40 He had debts amounting to some $500,000 and was on the run from loan sharks. He had sought refuge in Malaysia but decided to return home because of his daughter. The kidnapping was a very desperate act as he felt there was no other way of solving his financial difficulties.

41 Quoting a medical report dated 3 March 2004 from the Institute of Mental Health in respect of the first accused, Mr Subhas Anandan submitted that if the charge had been one of murder, it would, in all likelihood, have been reduced to culpable homicide not amounting to murder because of the diminished responsibility of the first accused. The medical report by Dr Gwee Kok Peng concluded:

> In my opinion, the accused was suffering from the following at the time of the alleged offence:
>
> 1. Depression with Anxiety
>
> 2. Temporal Lobe Epilepsy
>
> 3. Low intelligence with poor verbal reasoning skills, planning difficulties and concrete thinking. These may be related to his temporal lobe epilepsy.

> His depression was manifest as low mood, energy and self-esteem, poor sleep, social withdrawal, suicidal thinking and hopelessness. The contributing stressors were his marital problems, wife's miscarriage and unemployment, his mother's stroke, his business failure and financial difficulties.
>
> Given his low intelligence, poor verbal reasoning, planning difficulties and concrete thinking, he had difficulty coping with the multiple stressors at the time. Adding that to the hopelessness aggravated by his depression, he tended to resort to desperate, short-sighted measures.
>
> He was not of unsound mind at the material time. However, his psychiatric problems did impair his judgment.
>
> He is likely to benefit from treatment, which should include problem solving counselling and medication.
>
> He is fit to plead currently.

It was stressed that reliance on the medical report was not to evade responsibility for his acts but merely to plead for the court's compassion in view of his problems.

42 The abduction lasted less than half an hour and S was not harmed physically although the first accused accepted that there could be some mental trauma. The death penalty was clearly inappropriate here. I was also urged not to order caning in addition to imprisonment for life.

Mitigation for the second accused

43 Mr Lee Teck Leng submitted that imprisonment for life was sufficient punishment in this case "on account of their stupidity in actually asking the victim's family for money when the victim was no longer in their hands and their stupidity in believing the assurance of the victim's father that he did not report the matter to the police, and the [second] accused's psychiatric history which had a direct bearing on the commission of the offence".

44 The second accused is married with two children aged five and six respectively. He was the sole breadwinner of the family. The younger child is autistic. The second accused was a first offender and was driven by the financial difficulties of his cleaning firm to commit the offence.

45 The victim was released before any ransom was demanded by the accused persons. That meant S's family did not have to undergo the trauma of negotiating for her release and of scrambling for money to pay the ransom. S was not assaulted nor threatened as there was never any intention to hurt her. She was not tied up or blindfolded. Upon her request, the second accused did not gag her in the car. She was reassured during the ride that they had no intention of harming her. No weapon was used throughout the episode which lasted for less than half an hour only. The second accused was remorseful. He had co-operated fully with the investigators.

46 Like the first accused, the second accused also had psychiatric problems. Dr Lee Cheng of the Institute of Mental Health in a medical report dated 4 February 2004 reported that the second accused "suffers from a Bipolar Disorder" and "has recurrent depressive episodes and a manic episode in May 2001". The second accused was also found to be fit to plead and to stand trial and not of unsound mind at the material time despite being depressed.

47 Dr Francis Ngui, Consultant Psychiatrist and Medical Director of the Adam Road Hospital, prepared a medical report dated 12 April 2004 on the second accused after examining him on 17 and 22 March 2004. He noted that the second accused had been diagnosed in May 2001 to have Schizoaffective Disorder, a severe form of mental illness. During that time, he was talkative and irrelevant in his speech, had delusions of grandeur and paranoia and heard hallucinatory voices. "He was illogical, his judgment was severely impaired and he was out of touch with reality." He was hospitalised in Adam Road Hospital between 27 May and 16 June 2001 for treatment.

48 From June 2001 to May 2002, his mental state was stable. From July 2002 onwards, he started complaining about feeling stressed. From October 2002, there was a recurrence of sleeplessness and mood swings. In January 2003, he was noted to be depressed at a clinic review and was started on anti-psychotic medication. He defaulted on his outpatient treatments between March and August 2003. When assessed in August 2003, his mood was significantly depressed and agitated. He was last reviewed on 12 November 2003.

49 Dr Francis Ngui concluded that the second accused had Bipolar Disorder, a major form of mental illness characterised by episodes of severe mood swings. "During such episodes, the person becomes psychotic, losing touch with reality due to impaired judgment and logic." He was of the opinion that the second accused's history indicated that:

> [H]e was still having a Depressive Episode during December 2003, right up to the time of his offence on Christmas Day. He was demoralised, depressed and kept lamenting about being a failure as a father and husband. He had also stopped his medication for several weeks before the offence.
>
> In my opinion, Mr Chua was suffering from an abnormality of mind caused by his Depressive Episode of his Bipolar Disorder, and this abnormality was severe enough to significantly affect his mental state and substantially impair his mental responsibility for his act of kidnapping. The severity of his Depressive Episode from his Bipolar Disorder caused him to view his financial situation as bleaker than what it really was. As a result, his problem solving capabilities were impaired significantly, restricting his discernment and judgment in finding more appropriate choices to settling his debts.

50 Based on the above medical reports, it was submitted that:

> If the [second] accused did not suffer from his mental illness, he would probably not have committed the offence. In light of this diminished responsibility on the part of the [second] accused, we urge the Court to temper justice with mercy."

51 Finally, two related cases involving sentencing under s 3 of the Kidnapping Act were highlighted to me for guidance. I shall deal with these later.

Prosecution's submissions on sentence

52 The Prosecution did not wish to make any submissions on sentence.

The decision of the court

53 Section 3 of the Kidnapping Act provides:

> Whoever, with intent to hold any person for ransom, abducts or wrongfully restrains or wrongfully confines that person shall be guilty of an offence and shall be punished on conviction with death or imprisonment for life and shall, if he is not sentenced to death, also be liable to caning.

Section 2 of the same Act states that "abduction" shall have the meaning assigned to it in s 362 of the Penal Code, which reads:

> Whoever by force compels, or by any deceitful means induces any person to go from any place, is said to abduct that person.

Where the charges taken into consideration were concerned, s 384 of the Penal Code provides:

> Whoever commits extortion shall be punished with imprisonment for a term of not less than 2 years and not more than 7 years and with caning.

54 The second accused compelled S to go out of her home by forcibly carrying her to the RAV-4 and causing her to be driven away in it. The act of abduction was complete the moment the second accused carried her out of the compound of the house in question onto the road. The words "any place" in s 362 of the Penal Code have to be construed in a commonsensical way according to the particular factual situation. Here, the words would mean the house in question and that would of course include the compound of the house. Abduction is complete even though the intended destination has not been reached or, as in this case, the person abducted was abandoned along the way for whatever reason.

55 However, in order to sustain a conviction under s 3 of the Kidnapping Act, the Prosecution must prove that the abduction was with the intention of holding that person for ransom. I have already attempted to explain what "ransom" means in *PP v Selvaraju s/o Satippan* [2004] SGHC 154, a decision which is going before the Court of Appeal soon. A demand for ransom made after abduction would offer the best proof of the purpose of the abduction but no demand made does not mean no intention to make a demand. What has to be proved is the intent, not the demand nor the payment of ransom. In the present case, the voluntary statements of both accused persons put the matter beyond any dispute. The only purpose of abducting S was to force her father to pay their price for her release. The offence is complete even if the perpetrators did not succeed in their purpose.

56 The then Court of Criminal Appeal in *Sia Ah Kew v PP* [1972–1974] SLR 208 noted that the sentencing options in s 3 of the Kidnapping Act were very limited and gave the following guideline (at 210, [5]):

> In our opinion the maximum sentence prescribed by the legislature would be appropriate where the manner of the kidnapping or the acts or conduct of the kidnappers are such as to outrage the feelings of the community.

On the facts of that case, after noting that kidnapping for ransom was neither rampant nor on the increase in Singapore between 1970 and 1973 and having regard to the fact that two of the five appellants there were armed with pistols and one had a dagger, the court substituted the death sentences with imprisonment for life and ordered caning of between six to twelve strokes to be imposed.

57 In *PP v Lee Chuan Leong Vincent* [2000] SGHC 78, a 14-year-old female student was

kidnapped exactly five years ago by three men in a van while she was walking alone to her home. She was tied up with adhesive tapes and blindfolded. She was then brought to a house and was held there guarded by two of the men for the next 60 hours. She remained blindfolded throughout. A ransom was demanded with threats to kill the victim if the demand was not met. As soon as a ransom was paid by her father, she was released by the kidnappers. The mastermind pleaded guilty to a charge of kidnapping for ransom. The court in that case did not think the death penalty was the appropriate sentence in the light of the guilty plea and since the kidnappers were not armed and had not ill-treated or hurt the victim. Having decided on the sentence of life imprisonment, the court was at first minded to impose six strokes of the cane. However, after hearing the "persuasive mitigation" and considering the absence of a criminal record, the full co-operation rendered to the police, the mastermind's willingness to testify against his accomplices, the character references and the other factors mentioned earlier, the court decided not to impose caning.

58 Two days later, the two accomplices pleaded guilty before me on similar charges (see *PP v Zhou Jian Guang* [2000] SGHC 68). Like the court in the earlier case, I was minded to impose caning in addition to the sentence of life imprisonment but was constrained by the fact that no caning was imposed on the mastermind. Abiding by the principle of parity of sentences and finding no grounds to justify a harsher punishment for the underlings, I could not and did not impose caning on the two accomplices in that case.

59 In *PP v Selvaraju s/o Satippan* ([55] *supra*), I sentenced the kidnapper to imprisonment for life and to receive 24 strokes of the cane. Injury was caused to the 22-year-old victim there. In addition, the kidnapper set fire to the bedroom where he had confined the victim. There were also three other charges involving mischief by fire, voluntarily causing hurt and attempted murder.

60 I turn now to the facts in the present case. I note the medical reports on both the accused persons and sympathise with their problems. Together with the pleas of guilt and the absence of physical harm and of weapons, the appropriate sentence has to be imprisonment for life rather than the death penalty. The only matter that I have to consider now is whether to impose caning as well on one or both of the accused persons.

61 I have studied the statements given by them to the police during the investigations. Those statements show that the discussions and planning for the kidnap took place over at least one week. There was clearly meticulous planning with the second accused appearing to be the more brainy one.

62 Their moves were opportunistic, targeting easy victims like children and intruding into a home at a time when preparations for a party were underway and when strangers would not be immediately noticed. Being parents of young children themselves, the accused persons ought to know the anguish of any parent whose child has gone missing even for a few minutes and, here, the parents of the victim knew that their female seven-year-old child was snatched away by two unknown men.

63 The abandonment of the victim and of their kidnapping plans was not caused by a change of heart but by their sheer hard luck. There was every likelihood they would have held her captive in the first accused's flat if they had got away without being spotted and followed.

64 Their brazenness was further demonstrated by the extortion bid after the unsuccessful kidnap. The decision that very same evening to demand money in return for the safety of D's family, the purchase of phone cards the next day, the concocted story told to D, the scouting around for a safe drop-off point for the money, the identification of a vantage point to observe the drop-off and the route they planned for D to take showed clear-thinking, cool and rational minds. After picking up

the money, the second accused was able to tell the first accused that it would be "quite troublesome with the S$10,000 notes and we have to think of a way to get rid of the notes". They even had the presence of mind to discuss this problem while they were having lunch at the coffee shop although they could not arrive at a good solution.

65 Bearing all these matters in mind, I am of the view that caning should be imposed on both the accused persons. In the light of the mitigating factors mentioned earlier, I think three strokes of the cane for each of the accused persons will be enough punishment and will convey the message that kidnapping, especially of vulnerable victims, is likely to be visited with painful consequences. I therefore sentence both accused persons to imprisonment for life with effect from 27 December 2003 (the date of their arrest) and to receive three strokes of the cane each.

66 It is quite obvious that this kidnap would not have lasted only some 30 minutes if Ho Yen Yen, Chua Siew Eng and her husband, Ang Teck Ann, were not fortuitously at the house in question and in its vicinity that Christmas afternoon. Ho Yen Yen was very quick-witted and observant to have noted the registration number of the RAV-4 in those fleeting seconds and amidst the commotion. She also had great presence of mind when she immediately told Chua Siew Eng to call her husband. Chua Siew Eng was helpful and acted quickly in relaying the information to her husband by mobile phone. Ang Teck Ann displayed courage and selflessness in pursuing the RAV-4 assiduously as he could not know whether the kidnappers were dangerous men. His kind actions must have ameliorated to a great extent the horrific experience suffered by the then seven-year-old victim, barefooted and abandoned by the roadside in unfamiliar surroundings. He will be gratified to know that the little girl, in her statement made at the preliminary inquiry, referred to him as the "good man" who "asked me to go inside his car" and "lent me his handphone to talk to my mother and also my brother" and who then "sent me home". Through this heart-warming public-spiritedness of these three people, a much more heart-rending incident was averted.

67 Finally, this episode exemplifies the superb work done by our police force, whose quiet efficiency and trademark professionalism are essential for the proper administration of the criminal justice system. The swiftness with which the officers identified and arrested the kidnappers is inspiring indeed. There is also little doubt that the very thorough investigations have contributed significantly to the speedy conclusion of this matter.

Both accused persons convicted and sentenced to imprisonment for life and to three strokes of the cane each.

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