Public Prosecutor v Purwanti Parji
[2004] SGHC 224

Case Number : CC 31/2004

Decision Date : 29 September 2004

Tribunal/Court : High Court

Coram : V K Rajah JC

Counsel Name(s) : Jaswant Singh, Chong Kah Wei and Abigail Ng (Deputy Public Prosecutors) for prosecution; Subhas Anandan (Harry Elias Partnership) and Mohamed Nasser bin Mohamed Ismail (Md Nasser Ismail and Co) for accused

Parties : Public Prosecutor — Purwanti Parji

Criminal Law – Offences – Culpable homicide – Section 304(a) Penal Code (Cap 224, 1985 Rev Ed)

Criminal Procedure and Sentencing – Sentencing – Deterrent Factor – Violence in the context of an employer and domestic worker relationship merits heavy sentence

Criminal Procedure and Sentencing – Sentencing – Nationality of victim and or accused an irrelevant consideration

Criminal Procedure and Sentencing – Sentencing – Whether any mitigating factors present

29 September 2004

V K Rajah JC:

1 The precepts of the criminal justice system are applied uniformly and even-handedly to all criminal offenders in Singapore. Singaporeans and foreigners alike, residents and visitors alike, employers and employees alike, the affluent and the impecunious alike – all face identical judicial considerations should they choose to run afoul of the law. No innate factors dictated by the identity of the victim or that of the accused will be permitted to colour or cloud judgment and impede the course of justice. A consistently unwavering and relentless application of this judicial remit is a fundamental and inalienable pillar of the Singapore legal system.

2 Foreigners, who commit offences, whether they are employees or transient visitors, should not expect to be treated any differently from Singaporeans in a similar predicament. They can, however, rest assured that their nationality and/or the nationality of the victim will not tip the balance when it comes to judgment and sentencing. Sentencing considerations are determined entirely and solely by the criminal act in the context of the established factual matrix.

Dramatis personae

3 The accused, Purwanti Parji, is an Indonesian national. At the time of the offence on 4 August 2003, she was 17 years and 10 months old and was employed as a domestic worker.

4 The deceased, Har Chit Heang, was 57 years old at the material time. She was a housewife and resided at a house in Tai Keng Gardens ("the Tai Keng house") with her husband and younger son.

5 The accused was employed as a domestic maid by Ms Mok Wai Cheng ("Ms Mok"), the deceased's daughter-in-law, in November 2002. Ms Mok is married to the deceased's elder son and resides at a flat in Block 30 Woodlands Crescent, Singapore ("the Woodlands flat").

6 The accused stayed with Ms Mok, her husband and their baby daughter at the Woodlands flat on weekends and at the Tai Keng house on weekdays, when the deceased was entrusted with caring for her granddaughter.

Factual overview

7 On 4 August 2003 at about 11.37am, the police received a call from the accused reporting that "just now my auntie give the baby and she go upstairs … since 1030hrs … she say she want to do something … she don't want to open the door … I don't know what she is doing … I cannot see her".

8 When the police arrived at the Tai Keng house, they were let into the premises by the accused, who was carrying the baby. No one else was present in the house. The accused led the police and the Singapore Civil Defence Force paramedics ("SCDF paramedics") to a bedroom on the second floor of the house. The door was locked from the inside. One of the police officers, Sgt Muhalim bin Rohimin ("Sgt Muhalim"), knocked on the door. There was no response.

9 Upon forcibly entering the bedroom, Sgt Muhalim found the deceased lying motionless on the bed. She was wearing a T-shirt and shorts. She had a knife in her left hand and there were some linear cuts on her right wrist which had bled lightly. The blood around the cuts had dried up. There were fingernail abrasions on the deceased's neck. Her right eye was bruised. The SCDF paramedics attempted to resuscitate the deceased but to no avail. All vital signs of life were absent. The deceased was pronounced dead at 12.13pm by one of the attending SCDF paramedics.

10 There were no visible signs of any forced entry into the Tai Keng house or any indication that a burglary had been committed. On his arrival, the deceased's husband informed the police that the family had recently received two anonymous handwritten notes advising them to monitor the activities of the accused and to securely keep the keys of the rear gate of the house.

11 Further enquiries failed to reveal the presence of any suspicious persons in the vicinity of the house at the material time.

12 The police officers, however, observed that the accused had neatly cut fingernails that appeared to have been very recently trimmed. The accused was subsequently arrested at about 9.55pm on suspicion of having murdered the deceased. She underwent a medical examination at the KK Women's and Children's Hospital later that evening. Superficial abrasions were noted over her right index and right middle fingers. When interviewed at the Criminal Investigation Department, she admitted that she had strangled the deceased on the morning of 4 August 2003.

13 On 5 August 2003, an autopsy was performed by a forensic pathologist, Dr George Paul. He found multiple abrasions on the deceased's chin region and her neck. There had been extensive bleeding in the underlying neck muscles. In addition, the hyoid bone and the thyroid cartilage were fractured. There was a further haemorrhage under the scalp in the right temporal region, bruises on both eyelids and extensive subconjunctival haemorrhage in both eyes.

14 According to Dr George Paul, the abrasions were "consistent with those inflicted by fingertips and nails, from gripping the neck region and were sufficient, by causing damage to the neck structures within, to cause death in the ordinary [course] of nature by strangulation". He was of the opinion that the "pattern of crescentric and somewhat transverse abrasions as well as the extensive circumscribed effusion of blood in the underlying muscles of the neck and the asymmetric fractures of the hyoid bone and the thyroid cartilage suggest these injuries to have arisen from manual

strangulation". In his view, the scalp bruising appeared to be the result of an impact with some linear blunt object. He certified the cause of death as "strangulation".

15 Investigations revealed that on the morning of 4 August 2003, the deceased, her husband and younger son had all been staying as usual at the Tai Keng house. The deceased's elder son, Ms Mok, their baby and the accused arrived at the Tai Keng house early in the morning, after which the couple left for work at about 8.15am. Her younger son departed at about 9.00am and the deceased's husband left for work shortly thereafter, leaving only the deceased, the baby and the accused at home.

16 The accused claimed that she first contemplated killing the deceased while she was carrying out her household chores. She had become agitated and was extremely upset with the deceased for unjustifiably reprimanding her. When the thought first crossed her mind, the deceased was sleeping in her bedroom on the second floor of the Tai Keng house with the baby. The accused states that she twice approached the deceased's bedroom with the intention of strangling her but failed to carry out the act. After the second occasion, she noticed a knife upon returning to the kitchen. She seized it and proceeded once again to the deceased's bedroom clutching the knife.

17 However upon entering the bedroom she decided against using the knife and proceeded to strangle the deceased who was sound asleep. In the process of strangling the deceased, she used one of her hands to press the deceased's eyes shut. Having been caught unawares, the deceased could only put up mild resistance. As a consequence of the deceased's struggling, they both fell off the bed and the deceased hit her head against a small table standing beside the bed. Shortly thereafter, all resistance from the deceased completely ceased. The accused then carried the deceased and placed her back on the bed. In order to simulate the appearance of a suicide, the accused used the knife to cut the deceased's right wrist and placed the knife in the deceased's left hand.

18 The accused then calmly carried the baby out of the bedroom, shut the bedroom door and proceeded downstairs. She had earlier noticed her nail marks on the deceased's neck. In an attempt to conceal her involvement, she trimmed her fingernails with a nail-clipper. She later proceeded to feed the baby after which she contacted the police (see [7] above).

19 The accused then left the house and sought the help of the neighbours. She told them that the deceased had not emerged from her bedroom for some time and that she had concerns about her well-being.

20 The accused was initially charged with the murder of the deceased pursuant to s 302 of the Penal Code (Cap 224, 1985 Rev Ed) ("PC"). Just before the proceedings commenced, the charge was amended to a lesser charge of culpable homicide pursuant to s 304(a) of the PC, which prescribes, *inter alia*, a sentence of life imprisonment or a term of imprisonment not exceeding ten years. The accused admits having strangled the deceased and has now entered an unqualified plea of guilt to the amended charge.

The employer and domestic worker relationship

21 The privacy and sanctity of the home constitute a sacred right. Having said that, the relationship between an employer and a domestic worker is not a private matter in which public policy has no role to play or right to intrude. Domestic workers are not chattels to be abused and debased with impunity. The sanctity of hearth and home should be respected and preserved in such a manner that both household members and domestic workers enjoy secure expectations and total peace of

mind that physical violence in any form is alien and wholly impermissible in the context of their relationship.

22 The court has repeatedly made it patently clear that employers who mistreat their foreign domestic workers will be severely excoriated, with such malfeasance entailing nothing less than severe deterrent sentences. In this context, Yong Pung How CJ emphatically stated in *Farida Begam d/o Mohd Artham v PP* [2001] 4 SLR 610 at [26]:

> In imposing custodial sentences, the courts in cases like *Wong Suet Peng v PP* (MA 170/2000) and *Chung Poh Chee v PP* (MA 71/2000) have recognised the need for deterrence and the importance of public policy in this area.

23 While there may be instances of foreign domestic workers being maintained in a "prison without walls", this would be unusual. Given Singapore's highly built-up and urbanised neighbourhoods, domestic workers who are mistreated will, almost invariably, be able to communicate their distress to third parties or to have it noted. There are also mandatory medical check-ups for all foreign domestic workers semi-annually. One cannot deny, however, that there will sadly be instances where abuse of domestic workers carries on unhindered and unheeded. Members of the public have a role to play in stamping out such instances of domestic worker abuse. They can assist by drawing such cases to the attention of the relevant authorities. It is in the interests of the community at large that incorrigible employers be brought to task so that any abusive behaviour towards domestic workers be unconditionally curbed and condemned. Indeed, it has been observed that abusive conduct of this *genre* may damage Singapore's international relations: see *Farida Begam d/o Mohd Artham v PP* at [26] and [28].

24 The employer and domestic worker relationship is a complex, intricate and delicate amalgam of mutual expectations, responsibilities and trust. Some employers fail or refuse to appreciate that this is a bilateral commitment with reciprocal rights and duties, necessitating a "give and take" approach on both sides. Many foreign domestic workers need a period of acclimatisation and adjustment upon joining a new household. They are completely reliant on their employers who have a solemn responsibility for their physical and mental well-being. In turn, domestic workers owe duties of honesty, loyalty and good faith to their employers. For instance, deception and fraudulent behaviour constitute a total anathema to the basis of their relationship with their employers. Fundamentally, just as employers cannot inflict violence on domestic workers for any perceived misconduct, domestic workers in turn cannot respond to any perceived unfair or oppressive conduct through violence or any insidious means and measures that may cause harm.

25 Unfortunately, foreign domestic workers are sometimes subjected to rigorous clockwork regimes without so much as a modicum of understanding or acknowledgement from their employers that they might be experiencing severe cultural, personal and emotional stress and tension. In addition, they might be victims of relentless belittling and verbal abuse in some households, at the mercy of inconsiderate, callous employers and/or other household members. This builds up resentment and a festering anger that sometimes unfortunately explodes into irrational retaliation.

26 While the reasons for such corrosive and explosive anger can on occasion be understood – *retaliatory violence* can under no circumstances be condoned or justified, save for the very limited and extremely narrow exceptions which have been explicitly recognised in the PC. Any physical violence in the context of a domestic worker-employer relationship, regardless of the identity of the perpetrator – domestic worker, employer or any other household member – must be emphatically and unequivocally condemned and denounced both through words and through severe sentencing.

The plea in mitigation

27 Counsel for the accused made an impassioned plea that a sentence of life imprisonment should not be imposed on the accused because of her relative youthfulness and hitherto "unblemished record".

28 The accused has had a difficult and unpleasant life of poverty and hardship. She had been mistreated by her step-mother and at the tender age of 13 was sent to Jakarta to work as a maid. Soon after her seventeenth birthday, she arrived in Singapore to commence employment with Ms Mok. The income the accused earned was intended to supplement her family's income.

29 Shortly after she arrived in Singapore, she had to work for two households – Ms Mok's and the deceased's. It is alleged that her household chores commenced at 5.00am and stretched until midnight. Ms Mok had no complaints about the accused's work performance. Ms Mok also admitted that the deceased had reprimanded the accused in her presence and there were times when the "accused appeared sad".

30 It is further asserted that the deceased "constantly nagged and cursed" the accused and on occasion assaulted her. The accused also claims she was not given sufficient food.

31 On the fateful morning, it is claimed, "the deceased chided the [a]ccused for not cleaning the toilet properly and tried to slap her. The slap was blocked by the [a]ccused. The deceased as usual abused and cursed her and then went up to sleep". This was the proverbial "straw that broke the camel's back". The following extracts from counsel's submission are at once illuminating and deeply disconcerting:

> The Accused snapped and decided to kill the deceased for in her mind she saw no way out. She strangled the Deceased and tried to make it look as if it's a suicide. *She believed that with the Deceased gone, she can return to work for the employer*.
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> …
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> This crime was committed in despair and desperation. The Accused did not want to be sent back home neither did she want to go back home. She needed the income badly. *In her mind, the only way she can survive is when the Deceased does not exist.* Without the Deceased, she can continue to work. *This explains why she wanted to make it look like suicide so that she can continue to work*. The Accused did not have a childhood. She became an adult at the age of 9. *For the Accused, kindness and love were something alien*.
>
> [emphasis added]

32 Counsel also instructively referred me to the Court of Appeal decision in *PP v Tan Kei Loon Allan* [1999] 2 SLR 288 where it was observed at [37] and [40]:

> [W]e are of the view that the courts must now exercise caution before committing a young offender to life imprisonment. Contrary to traditional reasoning, in similar cases involving a youthful offender on the one hand and an older offender in the other, the youthful offender sentenced to life imprisonment would now be subject to a longer period of incarceration than an older offender, assuming they both lived to the same age.
>
> …

In a situation in which the court is desirous of a sentence greater then ten years, but feels that a sentence of life imprisonment is excessive, we have no choice but to come down, however reluctantly, on the side of leniency. Otherwise, the punishment imposed would significantly exceed the offender's culpability. It would, in our view, be wrong to adopt an approach in which the court would prefer an excessive sentence to an inadequate one.

The Prosecution's submission on sentence

33 The Prosecution submits that the accused's act of killing the deceased satisfies the legal requirements of the offence of murder pursuant to s 302 of the PC. The prescribed punishment for the offence of murder is death. By dint of s 213 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC"), a sentence of death shall not be pronounced on an offender "if it appears to the court that the offender was under the age of 18 years at the time when the offence was committed". In such cases, the court shall instead sentence the offender to be detained during the President's pleasure. In the present case, the accused was under 18 years of age at the time of the offence, and is therefore not liable to suffer the death sentence.

34 After considering the accused's representations, the Prosecution exercised its discretion to prefer a charge of culpable homicide not amounting to murder pursuant to s 304(a) of the PC, as the accused was agreeable to entering a plea of guilt to that charge. The Prosecution agreed to this course of action as it spared the deceased's family members the pain and trauma of testifying in court.

35 The Prosecution submits that the accused bore ill feelings towards the deceased as a consequence of the deceased's alleged abusive treatment of her. However, the facts reveal that the accused did not commit the killing due to any momentary loss of self-control or sudden rage. On the day itself, the accused had twice approached the deceased, who was sleeping in the bedroom, intending to strangle the deceased, but then hesitating each time. Finally, the accused acted on her intention to kill and retrieved a knife from the kitchen and once again proceeded to the deceased's bedroom. This time, the accused strangled the deceased without any compunction.

36 It is further contended that even if the deceased had scolded the accused that morning, there was a lapse of time which would have enabled the accused to calm down. The accused's repeated attempts to pursue her original intention to kill the deceased demonstrated that she was in full control of her actions. The Prosecution submits that when the accused did finally strangle the deceased, it was motivated by ill feeling, and was not a result of any loss of self-control. The Prosecution urged the court to pass a sentence of life imprisonment on the accused.

Sentencing considerations

37 The two principle sentencing considerations of particular relevance to the present factual matrix are *retribution* and *deterrence*; see *PP v Chaw Aiang Wah* [2004] SGHC 164 at [18].

38 Without condescending into the particulars of counsel's variegated catalogue of abuses allegedly inflicted by the deceased on the accused, it must emphatically be stated that this callous and heinous crime cannot by any stretch of imagination be justified or condoned on the pretext of "maid abuse". I am prepared, however, to accept that there is some basis to assert that the deceased was at times unnecessarily severe with the accused. The fact that the accused did not make similar assertions of abusive behaviour against any other member of the household also lends some support to this assertion. The accused's anger and hatred were focused solely and unremittingly on the deceased.

39 It is apparent that the accused did not act spontaneously or instinctively as a consequence of some grave and sudden or physical provocation She bided her time that morning until the deceased took a nap. She then wilfully executed her desire and intention to kill the deceased. The systematic attempt to cover up her involvement in the homicide fortifies my view that she had carefully thought through the consequences of her conduct and the need to meticulously conceal her role in the diabolical act.

40 I also take into account the fact that the accused had the presence of mind to craftily simulate the appearance of a suicide soon after remorselessly strangling the deceased. The accused with remarkable *sangfroid* telephoned the police feigning ignorance about the deceased's death. She consciously sought out the neighbours and attempted to sow the seeds of a theory that the deceased had taken her own life.

41 Even assuming *arguendo* that the deceased had repeatedly abused the accused verbally, it strikes me that the accused was no shrinking violet unable to fend for herself or to communicate her difficulties or distress to the world at large. In killing the deceased and thereafter attempting to camouflage her involvement, she displayed considerable, albeit ill-conceived, resourcefulness and composure. It appears to me that the accused had a brittle and immature temperament and carried out her wicked scheme because of her professed long-standing resentment against the deceased. There does not appear to be cogent concrete evidence of physical "maid abuse" preceding the homicide. The accused appeared to be quite capable of fending for herself if push came to shove. She is clearly a resourceful and calculating person.

42 I take into consideration the fact that she did not harm the baby, and made no allegations of ill-treatment against any other member of the household, in addition to the other points raised by her counsel. In the circumstances of this case, however, these matters cannot be regarded as plausible mitigating factors.

Conclusion

43 This is a disturbing case with a number of aggravating features pointing unambiguously to a considerable degree of premeditation on the part of the accused. The accused has unjustifiably and abominably caused a tragic death.

44 It bears reiterating at this juncture that domestic workers who resort to violence and/or retaliatory conduct should, like violent and abusive employers, expect nothing less than severe condemnation and harsh deterrent sentences. They should instead always attempt to seek redress for their grievances through purely legitimate means. Self-help culminating in violent means and measures must and will be categorically deplored and denounced by the court. The primitive laws of the jungle cannot be justified or sanctioned in the context of the vulnerable relationships of mutual trust and reliance inherent in a domestic household.

45 An unequivocal signal has to be conveyed, through the meting out of an appropriate sentence, that premeditated violence, particularly in the setting of a domestic household relationship, will be severely dealt with. I am constrained to determine that, notwithstanding her relative youthfulness, the appropriate punishment for the accused will be a sentence of life imprisonment. A sentence of ten years' imprisonment would in this factual matrix be wholly inappropriate and inadequate. The sentence of life imprisonment shall commence with effect from 4 August 2003.

Accused convicted and sentenced to life imprisonment.