

Public Prosecutor v Low Ah Soy
[2004] SGHC 249

Case Number : CC 36/2004

Decision Date : 05 November 2004

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : James Lee (Deputy Public Prosecutor) for prosecution; Choo Si Sen and Jennifer Lim Lay Choo (Choo and Lim LLC) for accused

Parties : Public Prosecutor — Low Ah Soy

Criminal Procedure and Sentencing – Sentencing – Accused pleaded guilty to culpable homicide not amounting to murder and offence of causing mischief – Appropriate sentence.

5 November 2004

Choo Han Teck J:

1 The accused, aged 59 years, pleaded guilty to a charge under s 304(b) of the Penal Code (Cap 224, 1985 Rev Ed), for culpable homicide not amounting to murder, and a charge under s 427 of the Penal Code for the offence of causing mischief. He was at the material time working as a taxi driver. The circumstances relating to both offences were connected with and arose from the same set of facts. The wife of the accused was leaving him for a man called Koh Teng Beng ("Koh"). She had also filed for divorce against the accused. They have two daughters, aged 27 and 30 respectively. On 2 April 2004, the accused telephoned his wife and told her to remove her belongings from the flat. She arrived at the flat with Koh at 12.30pm. When the latter tried to accompany her into the flat the accused stopped him, saying that "outsiders would not be allowed into the flat". At that point, Koh took out a knife, 19cm long, and threatened the accused with it. The accused ran to his kitchen to arm himself with a kitchen knife of 33cm in length. He then advanced towards Koh who, in his retreat along the external corridor of the flat, threw several flowerpots at the accused. Nonetheless, the accused got to Koh and stabbed him three times in the chest. Koh collapsed at the lift landing and died.

2 Dr Clarence Tan performed the post-mortem examination and reported in the autopsy report that Koh had died from the stab wounds. Other medical reports indicated that the accused had also suffered some minor injuries such as abrasions and bruises. A psychiatric report on the accused by the examining psychiatrist Dr Tommy Tan stated that in the doctor's opinion, the accused did not suffer from unsoundness of mind and was fit to stand trial. Mr Choo Si Sen, who represented the accused, did not object to the report, which, read in its context, indicated that the accused was not of unsound mind in the legal sense. This was made clear in the same report when Dr Tan stated that the accused suffered from a "moderate depressive episode with somatic symptoms" and thus qualified for the legal exception to murder under the nomenclature of "diminished responsibility". The relevant portion of Dr Tan's opinion is best set out in full:

In my opinion, the accused suffers from moderate depressive episode with somatic symptoms (F32.11, International Classification of Diseases, edition 10) since, at least, the beginning of this year. His mental disorder is characterised by a depressed mood, suicidal thoughts, somatic complaints, disturbed sleep, poor appetite, a diurnal variation of his mood, anxiety, histrionic ("illogical") behaviour and agitation. His mental disorder had not been treated.

He was *not of unsound mind* at the time of the alleged offence according to the McNaughten's Rules. However he was suffering from the above disorder at the time of the alleged offence. He was agitated with the presence of his wife and the deceased. He had partial amnesia for the alleged offence. He suffers from abnormality of mind, which would substantially impair his mental responsibility for the acts committed during the alleged offence. He qualifies for a defence of *diminished responsibility* for the alleged offence.

[emphasis in original]

3 In mitigation, counsel for the accused submitted that the accused had an unblemished record. He also explained the historical background that made the intrusion of Koh offensive and provocative. He stated that there was a period of time when the accused was not earning enough and his wife had to work to sustain the family. In appreciation and out of affection, the accused would regularly massage her aching joints, and cook for her. Her subsequent infidelity hurt him deeply. They had been married for more than 30 years and were hitherto a loving couple, well loved by their daughters, and liked by their neighbours and friends. The accused gave all his income to his wife because he believed that she was better at managing their domestic expenditure and savings. The accused consented to the second charge, namely, for causing mischief in smashing the windscreen of Koh's car. This took place shortly after he had stabbed Koh. When it was over, the accused telephoned a radio station and declared his crime to the radio broadcaster.

4 I was of the view that a sentence of four years' imprisonment was appropriate on the facts and circumstances of this case. I therefore sentenced him accordingly.

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