Public Prosecutor v Aguilar Guen Garlejo
[2006] SGHC 94

Case Number : CC 15/2006

Decision Date : 29 May 2006

Tribunal/Court : High Court

Coram : V K Rajah J

Counsel Name(s) : Cheng Howe Ming and Jill Tan (Deputy Public Prosecutors) for the Prosecution; Nathan Shashidran, Navin Joseph Lobo and Poh Ju Lyn Evangeline (Harry Elias Partnership), and Nandwani Manoj Prakash (Gabriel Law Corporation) for the accused

Parties : Public Prosecutor — Aguilar Guen Garlejo

Criminal Procedure and Sentencing – Mitigation – Accused pleading guilty to charge of culpable homicide not amounting to murder – Accused having no criminal antecedents – Accused co-operating with investigation and not attempting to flee – Accused's commission of offence not premeditated – Appropriate sentence to be imposed

Criminal Procedure and Sentencing – Sentencing – Mentally disordered offenders – Accused pleading guilty to charge of culpable homicide not amounting to murder – Accused suffering from depression amounting to abnormality of mind at time of offence – Accused appearing to have recovered from depression and having low risk of recidivism – Appropriate sentence to be imposed

29 May 2006

V K Rajah J:

1 On 9 September 2005 at about 12.45pm, a street cleaner made a grotesque discovery next to the Orchard Road Mass Rapid Transit ("MRT") station. He found a severed human head in a bag. This was to set in motion a series of revelations that captured the nation's attention for the next few days. The press and the public alike were consumed by a sense of revulsion as it appeared that an appalling crime had been committed. Why would anyone in his or her right frame of mind commit such an abominable act?

The factual matrix

2 The police arrived at the scene at about 1.53pm and promptly cordoned off the place. The bag was examined and found to contain pages from *The Straits Times* dated 8 September 2005 and two black garbage bags. Inside the garbage bags were more red plastic bags containing a pair of severed arms and legs. The torso was missing. A right thumbprint from one of the hands was obtained and upon screening was ascertained to be that of Jane Parangan La Puebla ("the deceased").

3 A check with the deceased's employer revealed that a missing person's report had been made on 8 September 2005. The report asserted that she had been missing since 7 September 2005.

4 Later on 9 September 2005 at around 6.10pm, the police received a call about an unattended "World Polo" suitcase swarming with flies that had been found at MacRitchie Reservoir. The suitcase was lying on a grass verge near the footpath at the reservoir just metres away from Lornie Road. The police unzipped the bag and found a torso crudely wrapped up in some garbage bags. The head and limbs were missing. The torso had feminine attributes and was only clad in a

brown bra and panties. The bag contained pages from the 6, 7 and 8 September issues of *The Straits Times*. There was also a copy of the *International Herald Tribune* on which was affixed the label: "Mr Prakash Mallya #08-23 Sunglade 9 Serangoon Ave 2".

5 Police officers immediately proceeded to the apartment whose address was on the label ("the Sunglade apartment") that was occupied by Mr Prakash Mallya and his wife, Anjali Mallya. Guen Garlejo Aguilar ("the accused"), their domestic assistant, was also present in the Sunglade apartment. The police interviewed the accused. She admitted knowing the deceased but denied any knowledge of her whereabouts.

6 A search of the accused's room was also conducted in the presence of her employers. There were blood stains on the underside of her mattress and on the floor below her bed. Inside a rubbish bin just outside the accused's room, police found sheared pieces of the deceased's work permit and a "World Polo" card tag that came from the suitcase found at MacRitchie Reservoir. Inside a kitchen cabinet under the kitchen sink, the officers also found an opened packet of red plastic bags, a chopper and an axe. The Mallyas confirmed that the chopper and the axe did not belong to them. Nor had they seen those items previously.

7 In the wee hours of the morning of 10 September 2005 at about 12.40am, the accused was placed under arrest for the murder of the deceased.

8 The accused's first statement was recorded on the same day. In it, she denied any knowledge of Jane's death. According to her, the deceased was still alive when she left the Sunglade apartment. However, in a second statement recorded on 13 September 2005, the accused admitted having had a fight with the deceased that culminated in her demise.

The fight and the dismemberment

9 Investigations revealed that the accused and the deceased met sometime in March of 2005 at Orchard Road. They soon became firm friends and met each other regularly. By all accounts they had a close friendship until just before the incident.

1 0 At 12.35pm on 7 September 2005, the deceased visited the accused at the Sunglade apartment where a bitter argument ensued between them. This soon escalated into an exchange of blows.

1 1 The fight started in the accused's room and subsequently spilled into the laundry area. As a result of the fight, both the women were injured. In the midst of their struggle, the accused grabbed the deceased's neck tightly with her right hand. The agreed statement of facts describes the ensuing struggle thus:

> She then took a cushion with her left hand and smothered the deceased's face. After sensing that the deceased was not moving, the accused removed the cushion. At this point the deceased began to move both her hands. The accused then used both her hands and strangled the deceased until the deceased stopped breathing.

1 2 The accused then placed the body inside a large "Santa Barbara Polo & Racquet Club" luggage bag to conceal it. She later attempted to remove all traces of the deceased's presence in the Sunglade apartment by cleaning up the bloodstains. She also removed the deceased's personal effects and her work permit from the body.

13 The accused claims that she was in a daze after the incident. She was unable to recall precisely what transpired over the next two days. Two days later, on the morning of 9 September 2005, the accused took a train to Farrer Park MRT station after which she proceeded to the Mohamed Mustafa Shopping Centre. There, she purchased a chopper, an axe, a pair of canvas gloves, a pair of latex gloves, green wallpaper, a bottle of Breeze detergent, a bolster, two pillowcases, a bed sheet and a packet of black garbage bags.

14 The accused then headed back to the Sunglade apartment where she systematically dismembered the deceased's body and placed the body parts into a bag and a suitcase. The accused asserts all this was done while she was in a state of bewilderment. Her mind was still numb and whirling with shock that she had killed her best friend.

15 With the use of the recently purchased cleaning equipment, she cleaned up the flat taking pains to ensure that no traces of blood were left. She then used the green wallpaper to cover up parts of the walls just above her bed. The accused also turned over the mattress and covered it with the new bed sheet. She later changed the pillowcase and threw away the blanket that was on the bed, washed and cleaned the chopper and axe, and placed them in the kitchen cabinet underneath the kitchen sink. Finally, she threw away the gloves and the cushion used to smother the deceased.

16 On the following day, she took a taxi to Orchard Road and placed the bag containing the deceased's head near the Orchard Road MRT station. Later she proceeded to MacRitchie Reservoir where she placed the suitcase near a public footpath within clear view, making no effort to conceal it. The accused cannot explain why she did this.

The accused's injuries

17 The following injuries were noted on the accused when she was examined on 10 September 2005 at 10.33am by Dr Ian Jay Basiao Tan of Alexandra Hospital:

(a) abrasions on the right shoulder, left leg, and nape; and

(b) haematomas on the right forearm, left lower leg, left back and right forearm.

Dr Wee Keng Poh's autopsy report

18 Dr Wee Keng Poh ("Dr Wee") performed an autopsy on the deceased. Other than the marks sustained as a result of the dismemberment, the following ante-mortem injuries were noted:

(a) Head and neck – two large bruises, a haematoma with bruise, a laceration with surrounding bruise;

(b) Left upper limb – a large bruise over the elbow;

(c) Left lower limb – several bruises of varying sizes over the ankle, shin, knee and thigh;

(d) Right upper limb – three superficial cuts extending as superficial linear abrasions roughly parallel to each other, a human bite mark with impressions of seven teeth over the mid-forearm;

(e) Right lower limb – several bruises over the ankle, knee and shin, a cut on the knee and on the back of the heel, abrasions on the forefoot and leg.

1 9 Dr Wee filed a report on the cause of death on 6 December 2005. Based on the DNA profiling of all the body parts and the fact that the skin tone was the same, he concluded that all the body parts belonged to the deceased.

2 0 Dr Wee stated that a toxicological analysis of the blood and urine samples did not reveal any poisons. Due to the multitude of superficial ante-mortem external injuries, he concluded that there was a struggle prior to her death. He declined to exclude the possibility of the deceased having been smothered. Nor did he rule out that death could have resulted from the altercation or from dismemberment.

2 1 Dr Wee confirmed in the course of the hearing that the deceased sustained substantially more injuries over a greater area of her body as compared with the accused.

Mitigation

2 2 The accused, who is now 30 years old, is a citizen of the Philippines who lives in the municipality of Tagudin, Ilocos Sur. In late 2001, she left her husband and two sons to seek employment in Singapore in order to supplement the family's meagre income.

23 The accused and the deceased became close friends soon after they met. The accused confided in the deceased that she was in the throes of domestic strife. She sorely missed her children. The relationship with her husband, Edwin, was also on the rocks.

2 4 The deceased had in the context of their close kinship solicited money from the accused claiming that she urgently needed to remit the money back home. The accused repeatedly obliged. Over time, the deceased borrowed a total of $2,000 from or through the accused. Half of this came from the accused's own savings. The remainder was procured through another Filipino friend, Jenny Narag ("Jenny"). Jenny had in turn borrowed the money on the accused's behalf from a loan shark. The accused had to pay monthly interest at the rate of 20% on this loan. The accused became increasingly agitated about the overdue loan and began to feel intense pressure over the urgency and overwhelming need to settle the outstanding amount. The deceased, on the other hand, adopted an entirely cavalier attitude about settling her financial obligation. In the context of her own prevailing family troubles and financial difficulties, such insouciance on the part of the deceased severely distressed the accused. She succumbed to depression.

2 5 On 7 September 2005, the deceased visited the accused at the Sunglade apartment. The two women soon started arguing about their differences. This angry exchange soon escalated into a physical confrontation. They wrestled, pulled each other's hair and then grabbed each other's necks. The accused held onto the deceased's neck while trying at the same time to force the deceased to release her. In the course of the struggle, she managed to grab a pillow lying on the bed and started to smother the deceased with it. When the deceased stopped moving, the accused removed the pillow and started sobbing – she thought the deceased had died.

2 6 Suddenly the deceased started moving again and the accused instinctively started to strangle her again. After a while the deceased ceased struggling.

2 7 The Defence contends that there are certain crucial considerations that should form part of the sentencing assessment. Firstly, the accused had no pre-conceived intention of getting into a fight, let alone of killing the deceased. There was no premeditation. Secondly, she had pleaded guilty to the charge under s 304(*a*) of the Penal Code (Cap 224, 1985 Rev Ed) at the earliest opportunity. By not prolonging the proceedings, she has saved the court's time and resources.

Thirdly, she cooperated with the investigation team and did not attempt to flee. Fourthly, she has no antecedents. Finally, the incident had its genesis in a mental abnormality that had transiently afflicted the accused. Objective medical evidence confirmed that the risk of recidivism was low. I should immediately observe that the second and third contentions are of tangential significance at best; given that the objective evidence proffered against the accused is nothing short of overwhelming and that she was apprehended very quickly as a result of the admirable pace of the police investigations.

Psychiatric evidence

2 8 The accused was remanded at Changi Women's Prison for psychiatric assessment. Her assessor was Dr Tommy Tan ("Dr Tan"), a consultant at the Institute for Mental Health. According to Dr Tan:

> When I examined Guen, she was polite and cooperative. She was appropriate in her behaviour. However she was inappropriately cheerful when I examined her on 26/09/05. Although she appeared cheerful initially during the subsequent examinations, she became tearful with a depressed affect when she described about her relationship with the deceased, the money she had to borrow to help the deceased and about the alleged offence. [emphasis in original]

29 When Dr Tan discussed with the accused her money problems, he observed:

> Guen said that she began to feel very sad. She started having difficulty sleeping at night as she would be thinking. She slept more and ate more as she said that she would not have to think. She gained about 5 kg in weight in the recent months. She had difficulty concentrating on her work especially "when people called me regarding this matter". She said that she felt worse each time the loan shark called her. She said that the loan shark had threatened to take away her work permit, go to her employer's home and tell her employer.
>
> She said that she felt very stressed as this is [the] only problem she faced in Singapore. She said that she felt sad when she was asked for money. She said that she had not been sending money home for a few months because of this problem.
>
> Guen said that she could not tell her employers about her problem, as they have been good to her. She is very worried about what would happen to her children.
>
> While in remand, she said she woke up very early in the morning and slept in the daytime. She denied that she had suicidal thoughts.

3 0 Dr Tan concluded that the accused was suffering from masked depression, which is a moderate major depressive disorder (single episode). It is his opinion that the accused was suffering from an abnormality of the mind caused by her mental disorder that substantially impaired her mental responsibility at the time of the offence. This would allow her to plead the defence of diminished responsibility. It appears that Dr Tan's carefully considered opinion has saved the accused from the prospect of having to confront a capital charge.

Masked depression

3 1 This medical term is explained in the *Oxford Textbook of Psychiatry* (Oxford University Press, 3rd Ed, 1996) at p 200:

> The term 'masked depression' is sometimes used for cases where depressive mode is not

conspicuous. Although there is no reason to think that these cases form a separate syndrome, the term is useful in drawing attention to a mode of presentation that is easily missed.

3 2 In short, the term embraces cases where the subject unconsciously conceals the symptoms that usually characterise the underlying depression – in this case, it was not apparent to those in contact with her that the accused was suffering from a single episode of a moderate major depressive disorder.

Moderate major depressive disorder (single episode)

3 3 According to *The ICD-10 Classification of Mental and Behavioural Disorders: Clinical descriptions and diagnostic guidelines* (World Health Organization, 1992) ("ICD-10") at pp 119 and 121, a person in depression:

> … usually suffers from depressed mood, loss of interest and enjoyment, and reduced energy leading to increased fatiguability and diminished activity. Marked tiredness after only slight effort is common. Other common symptoms are:
>
> (a) reduced concentration and attention;
>
> (b) reduced self-esteem and self-confidence;
>
> (c) ideas of guilt and unworthiness (even in a mild type of episode);
>
> (d) bleak and pessimistic views of the future;
>
> (e) ideas or acts of self-harm or suicide;
>
> (f) disturbed sleep;
>
> (g) diminished appetite.
>
> …
>
> Differentiation between mild, moderate, and severe depressive episodes rests upon a complicated clinical judgement that involves the number, type, and severity of symptoms present. The extent of ordinary social and work activities is often a useful general guide to the likely degree of severity of the episode, but individual, social, and cultural influences that disrupt a smooth relationship between severity of symptoms and social performance are sufficiently common and powerful to make it unwise to include social performance amongst the essential criteria of severity.

34 At p 121 of ICD-10, mild depressive episodes are described as follows:

> Depressed mood, loss of interest and enjoyment, and increased fatiguability are usually regarded as the most typical symptoms of depression, and at least two of these, plus at least two of the other symptoms described [above] should usually be present for a definite diagnosis. None of the symptoms should be present to an intense degree. Minimum duration of the whole episode is about 2 weeks.

35 Moderate depressive episodes are treated at as follows (at p 122):

> At least two of the three most typical symptoms noted for mild depressive episode [above] should be present, plus at least three (and preferably four) of the other symptoms. Several symptoms are likely to be present to a marked degree, but this is not essential if a particularly wide variety of symptoms is present overall. …
>
> An individual with a moderately severe episode will usually have considerable difficulty in continuing with social, work or domestic activities.
>
> [emphasis added]

3 6 The *Diagnostic and Statistical Manual of Mental Disorders* (American Psychiatric Association, 4th Ed, 1994) ("DSM-IV") furnishes an in-depth description of the symptoms in a major depressive episode. In addition to the discussion in the ICD-10, the DSM-IV observes at pp 321–322:

> Appetite is usually reduced, and many individuals feel that they have to force themselves to eat. Other individuals, particularly those encountered in ambulatory settings, many have increased appetite and may crave specific foods (e.g., sweets or other carbohydrates). When appetite changes are severe (in either direction), there may be a significant loss or gain in weight, …
>
> The most common sleep disturbance associated with a Major Depressive Episode is insomnia … Individuals typically have middle insomnia (i.e., waking up during the night and having difficulty returning to sleep) or terminal insomnia (i.e., waking too early and being unable to return to sleep). Initial insomnia (i.e., difficulty falling asleep) may also occur. Less frequently, individuals present with oversleeping (hypersomnia) in the form of prolonged sleep episodes at night or increased daytime sleep. …
>
> …
>
> Many individuals report impaired ability to think, concentrate, or make decisions … They may appear easily distracted or complain of memory difficulties.

Dr Tan's testimony

3 7 Dr Tan testified as a prosecution witness. He was emphatic in concluding that the accused was labouring at the material time from masked depression or a single episode of moderate major depression. He took pains to explain that in a single episode, there is a clear and distinct start and end to the depression. Dr Tan was unequivocal in his perception that the depression probably started soon after the loan problems surfaced and lasted for a couple of weeks.

38 Taking into consideration the case history and the accused's background, he concluded that the accused has a low risk of recidivism. He relied on the following positive prognostic factors:

(a) the accused is female and therefore has a lesser tendency towards violence;

(b) she has no prior psychiatric problems;

(c) she has no criminal antecedents;

(d) she appears to be of good character; and

(e) the presence of a strong family support network if and when she is reunited with her family.

3 9 Dr Tan did, however, indicate that there was one negative factor – the bizarre manner in which the body was disposed (*ie*, the dismemberment). He was quick to add that, notwithstanding, this probably went towards the accused's state of mind *after* rather than at the time of the offence.

The charge

40 The accused pleaded guilty on 18 May 2006 to the following charge:

> You,
>
> **Guen Garlejo Aguilar (F/30 Years)**
>
> **FIN No: G 7383779 R**
>
> are charged that you, on or about the 7th of September 2005, at or about 12.35 p.m., at Block 9 #08-23 Serangoon Avenue 2, Sunglade, Singapore, did cause the death of one Jane Parangan La Puebla, female aged 27 years, by strangling the said Jane Parangan La Puebla on the neck with both your hands, with the intention of causing her death, and you have thereby committed an offence of culpable homicide not amounting to murder punishable under section 304(a) of the Penal Code, Chapter 224.

Sentencing considerations

4 1 There are broadly speaking three sentencing options for culpable homicide not amounting to murder pursuant to s 304(*a*) of the Penal Code (excluding caning and/or a fine). These sentencing options in order of decreasing severity are: life imprisonment, ten years' imprisonment or a term below ten years.

42 Given the heinous nature of the offence, I must begin by considering whether a term of life imprisonment is appropriate. In *PP v Chee Cheong Hin Constance* [2006] SGHC 60 ("*Constance Chee*") at [5]**I**[6], I had summarised the applicable considerations in the following manner:

> The Court of Appeal in *Neo Man Lee v PP* [1991] SLR 146 and *Purwanti Parji v PP* [2005] 2 SLR 220 at [19] approved and applied the following three broad criteria that could warrant the imposition of a term of life imprisonment as enunciated by the English Court of Appeal in *R v Hodgson* (1968) 52 Cr App R 113 at 114 ("the *Hodgson* criteria"):
>
> > (1) where the offence or offences are in themselves grave enough to require a very long sentence; (2) where it appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future; and (3) where if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.
>
> In *Purwanti Parji v PP*, the Court of Appeal took pains (at [24]) to stress that these criteria were "mere guidelines" whose "status should not be overstated". Just as importantly, the court acknowledged that mental impairment was not the "only way" to establish unstable character (at [22]). The reference to "unstable character" would apply to individuals who could pose a risk or danger to society arising from an inability to maintain self-control when confronted with some provocation, real or imagined.

4 3 The Court of Appeal in *Purwanti Parji v PP* [2005] 2 SLR 220 ("Purwanti") at [25] had emphasised that caution must be exercised "before committing a young offender to life imprisonment, especially since life imprisonment now means imprisonment for the rest of the prisoner's natural life". See also *Abdul Nasir bin Amer Hamsah v PP* [1997] 3 SLR 643 at [32]; *PP v Rohana* [2006] SGHC 52 ("*Rohana*") at [12], and *PP v Tan Kei Loon Allan* [1999] 2 SLR 288 ("*Tan Kei Loon*") at [37]. Generally speaking, the degree of premeditation as well as the age of the offender are crucial factors tipping the scales for or against a sentence of indeterminate duration.

4 4 The accused's state of the mind prior to and during the actual incident is crucial in assessing her culpability and in determining the appropriate sentence. I must in this context add and reiterate that the applicability of the sentencing considerations pertaining to general deterrence and specific deterrence are of penumbral significance given that the accused had a mental illness when the crime was committed: see *Ng So Kuen Connie v PP* [2003] 3 SLR 178 at [58]. I refer in this connection to another of my observations in *Constance Chee* at [16]:

> The imposition of an indeterminate prison term should be avoided when addressing offenders with an unstable medical or mental condition *if* there is a reasonable basis for concluding that the offender's medical condition could stabilise and/or that the propensity for violence would sufficiently and satisfactorily recede after medical treatment and continuing supervision. The burden is on the Prosecution to establish that the accused is likely to remain a future and real danger to the public without medication and permanent incarceration. [emphasis in original]

45 The burden is on the Prosecution to adduce facts intimating that life imprisonment is an appropriate sentence for the accused. This is a burden that the Prosecution has pointedly declined to either address or discharge in the instant case. On the contrary, Dr Tan who testified for the Prosecution opined on the basis of the applicable prognostic considerations that the accused's risk of re-offending is low and that the depressive episode in question was purely of a transient nature.

4 6 Dr Tan is optimistic that the unhappy confluence of factors that contributed to and triggered the accused's depression and ultimately the untimely death of the deceased were in themselves abnormal; as such, the likelihood of a future recurrence is improbable.

47 In *Purwanti*, the accused was a young maid who killed her employer. She was convicted under s 304(*a*) of the Penal Code. In imposing a life sentence on her, the court was plainly perturbed by her character, the risk of recidivism and the potential harm to society at large. The accused in the present case has, on the other hand, received a favourable evaluation, not least, from a psychiatrist testifying for the Prosecution. Such an evaluation cannot be legitimately ignored or underestimated.

4 8 In *Constance Chee*, the accused had kidnapped a child and caused her to fall from a block of flats. She was charged under s 304(*a*) of the Penal Code. The accused was suffering from schizophrenia and this factor significantly coloured her moral culpability and responsibility for her actions. Nevertheless, the court observed at [13] that the gravity of the offence necessitated a lengthy term of imprisonment. The accused was sentenced to ten years' imprisonment.

4 9 In *PP v Juminem* [2005] 4 SLR 536, the two accused domestic workers were charged with murdering their employer. The court accepted the defence of diminished responsibility and convicted them on a reduced charge under s 304(*a*) of the Penal Code. The first accused was suffering from a depressive disorder. This, coupled with her personality and the abuse she suffered at the hands of her employer, diminished her responsibility for her employer's death. She was sentenced to life imprisonment. At 18 years of age, the second accused was young by any account. Her youth, immaturity, low intellect, and depression were all relevant considerations, tipping the balance in her

favour and persuading the court to sentence her to ten years' imprisonment.

5 0 In *Rohana* ([43] *supra*), the accused was a 21-year-old maid who had strangled her employer. She pleaded guilty to a charge under s 304(*a*) of the Penal Code. In distinguishing *PP v Juminem* and *Purwanti*, Woo Bih Li J noted that in both those cases, the killing was the result of a significant degree of premeditation, which was conspicuously absent in *Rohana*: see [14]. Similar to the present case, the expert opinion pronounced in *Rohana* intimated that the accused in that case suffered from diminished responsibility arising from a moderately severe depressive episode. The lack of premeditation ultimately persuaded Woo J to rule out life imprisonment. He sentenced the accused to ten years' imprisonment.

51 In *Tan Kei Loon* ([43] *supra*), the Court of Appeal noted at [33]:

> We were of the view that it is not desirable, unlike simple rape, to set a benchmark for culpable homicide. The range of circumstances in which such offences are committed is extremely varied, as our brief survey of the reported cases demonstrates. They are not easily classified, and there is no such thing as a 'typical' homicide. Similarly, to classify all culpable homicides as more serious than all rapes is overly simplistic. As counsel for the respondent pointed out, there is a co-relation between the offender's culpability and his mens rea. Whereas the rapist intends to violate the victim without her consent, the perpetrator in a culpable homicide case lacks the intention to cause death. *Sentencing for culpable homicide should remain a matter within the trial judge's discretion (subject to our power to review a decision made in error, or which is manifestly excessive or inadequate), and should be determined on the facts of each particular case.* [emphasis added]

5 2 Having briefly surveyed some relevant sentencing precedents, it now remains for me to apply the prevailing sentencing considerations to the salient facts.

5 3 At the outset, I have to acknowledge and duly take into account the accused's improbable likelihood of re-offending as assessed by Dr Tan. The accused's depression had a distinct beginning in that it was triggered by her own domestic complications and compounded by her financial predicament. The accused now appears to have recovered from her transient illness. Familial support and medical counselling will further diminish any risk of future offences and ameliorate her chances of recovery. It is noteworthy that even the mayor of her home town has given concrete assurances that she will receive the necessary counselling support and supervision once her incarceration ends. In the circumstances, the imposition of a sentence of indeterminate duration on the accused is clearly inappropriate.

5 4 Her prevailing illness, at the time the offence was committed, strongly suggests that the element of premeditation was lacking. The injuries sustained by both the accused and the deceased support Dr Wee's postulation that there was indeed a fight. No weapon was used in inflicting the ante-mortem injuries. It is now undisputed that the deceased died from strangulation. It is, however, germane to note in this connection that the ante-mortem injuries sustained by the deceased were very much greater in their severity as compared to those sustained by the accused. This suggests that the accused had the upper hand throughout the struggle.

5 5 The accused had at least two opportunities to avoid killing the deceased. She could have held back after she pushed the deceased off her during the fight. Instead she chose to grab a pillow and smother the deceased. Later when she saw the deceased's hands moving, she had a further opportunity to be repentant, either by reviving the deceased or by seeking help. Instead the accused in a remorseless act of cruelty used her bare hands to effect the homicide. Granting that the

accused suffered from a mental abnormality, it still cannot be credibly gainsaid that she could at all material times distinguish between right and wrong.

56 There is one further point I ought to make in connection with the appropriate sentence in the instant case. While the conduct of the accused in dismembering the deceased's body is both grotesque and abominable in every sense, legally it constitutes an entirely irrelevant sentencing consideration. The accused has only been charged with and convicted of killing the deceased; not for an offence connected with the dismembering of the deceased's body and/or subsequent attempts at disposal. It bears reiteration that the act of killing in this case occurred well before the body was dismembered. A court when confronted by such an unusual and repulsive mode of body disposal may legitimately draw myriad inferences pertaining to an accused's prior culpability. No two cases of this nature are or can conceivably be symmetrical. It would be quite inappropriate to seek to draw analogies between different cases of body dismemberment given the multitude of imponderables associated with human behaviour. In this case one might say that the accused behaved rather paradoxically. It would seem at first blush that the act of dismemberment manifested an intention to conceal her crime as evidenced by her immediate attempts to clumsily conceal the body and clean up the Sunglade apartment. However, by choosing to plant the deceased's head and torso in two very public places the accused's behaviour strikes one as nothing short of incoherent and incomprehensible. At that juncture she no longer sought to conceal the deceased's demise. Her post-offence conduct was baffling and testament to the workings of a tortured mind. It would be fair, all things considered, to infer that her prevailing illness was in all likelihood severely exacerbated after she killed the deceased.

Conclusion

57 It is most unfortunate that a tragic concatenation of distressing circumstances had conspired to trap the accused in a state of transient mental abnormality. That said, her illness did not in any way dispossess her of the ability to distinguish between right and wrong. While sympathy may be added, justice cannot be subtracted from the sentencing equation. The accused has consciously caused the loss of a life. An appropriate sentence has to be imposed. I determine, upon considering all the relevant circumstances, that the appropriate sentence for the accused is a term of imprisonment of ten years commencing from the date of her arrest on 10 September 2005.

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