

Public Prosecutor v Wang Minjiang
[2008] SGHC 209

Case Number : MA 227/2008
Decision Date : 14 November 2008
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Mark Tay (Attorney-General's Chambers) for the appellant; Respondent in person
Parties : Public Prosecutor — Wang Minjiang

Criminal Procedure and Sentencing – Sentencing – Section 376B(1) Penal Code (Cap 224, 1985 Rev Ed)

14 November 2008

Judgment reserved.

Choo Han Teck J:

1 The respondent pleaded guilty on 28 August 2008 to four charges under the Women's Charter (Cap 353, 1997 Rev Ed). The first charge (DAC 35610/08), under s 140(1)(d), was for bringing a 17-year old female into Singapore for the purposes of prostitution. He was fined \$8,000 and, in default, eight weeks imprisonment. The second charge (DAC 36407/08), under s 146(1) was for living on the earnings of prostitution. He was fined \$6,000 and in default, six weeks imprisonment. The third charge (DAC 36409/08), under s 147(1) was for managing a coffeeshop on a place of assignation. He was fined \$3,000 and in default, three weeks imprisonment. The fourth charge (DAC 38754/08, recorded as "the sixth charge" in the court below), under s 376B(1) was for aiding another person in the procurement of sexual services of a 17-year old female. He was fined \$8,000 and in default, eight weeks imprisonment. Three other charges under the Women's Charter were taken into account for the purposes of sentencing. The respondent did not pay the fines. He had been remanded since 8 August 2008 and, was at the time of this appeal, still serving the 25 weeks imprisonment in default for non payment of the fines. The public prosecutor appealed against sentence in respect of the fourth charge which reads:

You,
Wang Minjiang, M/36 years old
DOB 18.2.1972
China Passport No G15890918
China National

are charged that you, sometime on or about the 4th day of August 2008, at Blk 41 Sims Drive #02-255, Singapore, did abet by intentionally aiding one Tan Chye Hin, Male/55 years old, to obtain for consideration, to wit, a sum of S\$100/-, the sexual services of one B, Female/17 years old, DOB: xxx, who is under 18 years of age, which act was committed in consequence of your abetment and you have thereby committed an offence punishable under Section 376B(1) read with Section 109 of the Penal Code, Chapter 224 (2004 Rev. Ed.)

Section 376B(1) reads as follows:

376B. —(1) Any person who obtains for consideration the sexual services of a person, who is under 18 years of age, shall be punished with imprisonment for a term which may extend to 7

years, or with fine, or with both.

2 The statement of facts was brief and straightforward. Two young women including the 17-year old mentioned in the charges, were brought into Singapore by the respondent with the help of a couple from China. He set up the girls for prostitution in Singapore. Two of the customers were 55 and 60 years old respectively.

3 The point of interest is the novelty of the sentence under appeal. It was in respect of a newly created offence under s 376B(1). The learned deputy public prosecutor ("DPP") submitted that it was the legislature's intention that these sort of offences "be viewed seriously and for such offences to be enforced strictly." He submitted that the "learned district judge only paid lip service to the parliamentary intent and glossed over the vital reason enunciated by the Senior Minister of State for protecting this vulnerable group and to enforce the law strictly in this regard." The learned DPP submitted that the judge below erred because he took the view that a 17-year old was capable of consensual sex, he had thereby failed to appreciate Parliament's intention of protecting persons below the age of 18. I should first point out that the criticism apparent in the DPP's submission was too harsh and may not be warranted. This instant case was not an easy one to find the right range of sentence, especially since it was the first under the new law. It does seem to me, however, that a more rigorous sentence might be needed to discourage international prostitution involving persons the law regards as young and vulnerable. A fine might not be an adequate sentence in the present circumstances. Although Parliament had provided for a fine as the lowest end of the sentence (and seven years imprisonment as the highest end), a fine should be reserved for cases of exceptional circumstances, but nothing in the present case indicated that there were any such factors. Neither were there any exceptional factors that might suggest that a long term of imprisonment was necessary. In the circumstances, I am of the view that the fine of \$8,000 should be set aside and a term of imprisonment of 12 months imposed. The term of imprisonment will take effect from 8 August 2008.

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