

Public Prosecutor v Lim Hock Hin
[2002] SGHC 145

Case Number : CC 33/2002

Decision Date : 15 July 2002

Tribunal/Court : High Court

Coram : MPH Rubin J

Counsel Name(s) : Jaswant Singh and Hwong Meng Jet (Deputy Public Prosecutors) for the Public Prosecutor; Joseph Theseira (Naidu Mohan & Theseira) for the accused

Parties : Public Prosecutor — Lim Hock Hin

*Criminal Procedure and Sentencing – Sentencing – Culpable homicide not amounting to murder
– Mentally-impaired accused – Primary concerns for mentally impaired accused in such offence
– When life imprisonment appropriate – Appropriate sentence – s 304(a) Penal Code (Cap 224)*

impaired his better judgment and control. Dr Phang added that however impaired though the accused's judgment might have been at and around the material time, he still retained sufficient mental capacity to be capable of forming an intent to cause the injuries in question. Dr Phang noted that the accused had a history of epilepsy dating back to 1983 and his seizures were not optimally controlled in spite of treatment, with recurrences on a regular basis. The accused would have a predilection towards behaving violently and dangerously when in an epileptic seizure. Dr Phang concluded that the accused would require treatment and close follow-up on a permanent basis.

The accused pleaded guilty and was convicted for the offence of committing culpable homicide not amounting to murder under s 304(a) of the Penal Code, Cap 224. The sole issue before the court was what was the appropriate sentence to be imposed in this case where the accused was found to be suffering from a mental condition which required treatment on a permanent basis.

Held,

imposing a sentence of life imprisonment :

(1) In relation to the sentence to be imposed, attention was drawn to the sentences imposed by the High Court in eight recent cases. It would appear from the cases that the courts have imposed sentences of life imprisonment in similar situations where mentally impaired offenders were convicted for committing culpable homicide not amounting to murder. The concern addressed by the courts in those cases were more in the direction of treatment, rehabilitation and prevention rather than deterrence or retribution.

(2) The accused was apparently oblivious to the fact that the person whom he attacked – that too over a trivial pearl bracelet – was none other than his mother, as he was then in the throes of an epileptic seizure. The accused was indeed in need of a long and closely monitored treatment regimen, and if not afforded that, the likelihood of danger and harm to the public was not imaginary but real.

(3) Consequently, having regard to all the factors, the accused is sentenced to a term of imprisonment for life with a direction that the accused be given treatment on a regular basis for his illness whilst serving his sentence.

Case(s) referred to

Neo Man Lee v Public Prosecutor [1991] 2 MLJ 369 (refd)

Public Prosecutor v Aloysius Joshi Carilman

(CC 43/1999) (refd)

Public Prosecutor v Dolah bin Omar

(2001) 4 SLR 302 (refd)

Public Prosecutor v Donald Peter Chandraraj

(CC 9/1996) (refd)

Public Prosecutor v Kwok Teng Soon

(2001) 4 SLR 576 (refd)

Public Prosecutor v Lee Chee Seng

(CC 48/1996) (refd)

Public Prosecutor v Lim Boon Chong Cyril

(CC 34/1997) (refd)

Public Prosecutor v Ong Wee Teck

(2001) 3 SLR 479 (refd)

Public Prosecutor v Wee Eng Jong

(CC 21/2001) (refd)

R v Rowland Jack Foster Hodgson

(1968) 52 Cr App R 113 (refd)

Legislation referred to

Penal Code (Cap 224) s 304(a)

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Judgment

GROUND OF DECISION

1. Lim Hock Hin, a 42-year old male Singaporean pleaded guilty before me and was convicted for an offence of committing culpable homicide not amounting to murder under s 304 (a) of the Penal Code (Cap 224). The charge he faced averred that he slashed his 65-year old mother with a knife at about 11.30 am, on 13 November 2001 with the intention of causing bodily hurt as was likely to cause death and caused her to suffer death on 20 November 2001.

2. The facts which gave rise to the present proceedings can be summarised as follows.

3. The accused and his mother Mdm Tan Ah Pong were residing at a flat at Block 12 Redhill Close, #01-106, Singapore. At about 11.30 am, on 13 November 2001, the accused had an argument with his mother

in their flat over the whereabouts of a pearl bracelet given to him by someone. In the course of the altercation, he started pushing his mother in the chest continuously. When his mother was trying to placate him by saying that she could not recall where she had placed the bracelet, the accused started to become violent. He first used a chair and later other objects which he could get hold of from the kitchen to hit and hurt her. When his mother continued to protest that she could not recall where the bracelet was, the accused suddenly seized a knife found nearby and slashed her, causing her to fall.

4. It would appear that after Mdm Tan was hurt, she somehow managed to find her way to her neighbour's flat and informed her neighbour that her son had stabbed her with a knife. The neighbour then called the police.

5. The accused, in the meantime, fled the flat in panic. However, as he reached the top floor of a nearby block of flats, he felt that his mother might still be alive. He then decided to return home and he did.

6. Upon his return, the accused noticed the presence of police officers as well as his siblings outside the flat. Presently, he asked the police the condition of his mother and was told that she was all right. He was soon arrested and sent to hospital for treatment as he was found to have injured his right hand.

7. The post-mortem finding of Dr Wee Kheng Poh, Consultant Forensic Pathologist from the Centre for Forensic Medicine, Health Sciences Authority, was that the cause of the death of the victim was bronchopneumonia with hypoxic encephalopathy following a slash wound of the neck. The post-mortem report also listed a number of injuries to the victim's head, neck, chest, abdomen and arms.

8. The accused was, in the event, sent to Woodbridge Hospital for a psychiatric assessment. In the opinion of Dr Stephen Phang, Consultant Psychiatrist from Woodbridge Hospital and the Institute of Mental Health, the accused was suffering from an acute epileptic seizure at the time of the offence which significantly impaired his better judgment and impulse control, to the extent that he attacked his mother fatally as a direct consequence of his malady, which he would not have done had he not had a fit that morning. Dr Phang added that 'however impaired though his judgement may have been at and around the material time, he still retained sufficient mental capacity to be capable of forming an intent to cause the injuries in question'.

9. Further, according to Dr Phang, the accused retained the mental capacity to know that his act was likely to cause death, although unfortunately, his mental responsibility was significantly diminished at and around the material time, qualifying him for the defence of diminished responsibility. Dr Phang noted that the accused had a history of epilepsy dating back to 1983 and his seizures were still not optimally controlled in spite of treatment, with recurrences on a regular basis. He commented further that when in the throes of an epileptic seizure, the accused would have a predilection towards behaving violently and dangerously. He concluded that the accused required treatment and close follow-up on a permanent basis.

10. The sole question before the court was what was the appropriate sentence to be imposed in this case where the accused was found to be suffering from a mental condition which required treatment on a permanent basis.

11. Section 304(a) of the Penal Code provides that:

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to caning, if the act by which death is caused is done with the intention of causing death, or of

causing such bodily injury as is likely to cause death.

12. Defence counsel in his mitigation plea urged the court not to impose a sentence of life imprisonment on the accused. In this regard, he invited my attention to the view expressed by defence psychiatrist, Dr Y C Lee who said that he *'believed that if the epilepsy of the accused is well controlled and his psychosis is kept in remission with medications, he[would be] able to live a normal life and would not be a danger to others.'* It was all well said but the question remained as to who was going to ensure the control and treatment regimen suggested by Dr Lee. The sad fact was that his mother who was residing with him was gone forever because of his sudden violence.

13. The learned DPP in his submission said that the belief expressed by the defence psychiatrist appeared to be predicated by a number of 'ifs' and 'buts' and urged the court to take public interest into consideration. He reiterated Dr Phang's prognosis that the accused required treatment and close follow-up on a permanent basis due to his continuing predilection towards violent and dangerous behaviour and the attendant danger to the public and those who would be in immediate contact with him.

14. In relation to the sentence to be imposed, my attention was invited to the sentences imposed by the High Court in the recent few years. Eight cases were cited and they were: ***Public Prosecutor v Ong Wee Teck*** (2001) 3 SLR 479, ***Public Prosecutor v Kwok Teng Soon*** (2001) 4 SLR 576, ***Public Prosecutor v Wee Eng Jong*** (Criminal Case No 21/2001), ***Public Prosecutor v Dolah bin Omar*** (2001) 4 SLR 302, ***Public Prosecutor v Aloysius Joshi Carilman*** (CC 43/1999), ***Public Prosecutor v Lim Boon Chong Cyril*** (Criminal Case No 34/1997), ***Public Prosecutor v Lee Chee Seng*** (Criminal Case No 48/1996) and ***Public Prosecutor v Donald Peter Chandraraj*** (Criminal Case No 9/1996).

15. The following schedule sets out the brief facts and sentences imposed in the said eight cases:

Case	Mental Condition	Brief Facts	Psychiatrist's Opinion	Sentence imposed
PP v Ong Wee Teck (2001) 3 SLR 479	Schizophrenia	The accused killed his brother as he thought that his brother was trying to poison him	The accused would require on-going treatment probably on a lifelong basis.	Life imprisonment

PP v Kwok Teng Soon (2001) 4 SLR 576	Delusional Disorder	The accused killed his wife from China after they had some disputes about money.	In the event of a relapse, the accused could be violent towards others. With treatment, the Delusional Disorder could remit but control of symptoms is dependent on total compliance with treatment and this would be difficult to enforce in the community.	Life imprisonment
PP v Wee Eng Jong (CC 21/01)	Schizophrenia	The accused stabbed a friend to death following a dispute at a coffee-shop.	There is a risk of the accused committing future acts of violence. The accused requires long term psychiatric follow-up.	Life imprisonment.
PP v Dolah Bin Omar (2001) 4 SLR 302	Schizophrenia	The accused killed his uncle for no apparent reason. Psychiatrist opined that the accused was suffering from paranoid delusion about the deceased.	The accused needs long term medication and can be a danger to others and himself if he does not take his medication.	Life imprisonment
PP v Aloysius Joshi Carilman (CC 43/99)	Schizophrenia	The accused used a bottle to hit his friend's head and used a metal chair to hit his chest and stamped on his chest.	The accused will pose a danger to himself and to society if he stopped medication.	Life imprisonment
PP v Lim Boon Chong Cyril (CC 34/97)	Schizo-affective Disorder	The accused smothered his 2 year old nephew with a pillow.	The accused was a danger to society.	Life imprisonment

PP v Lee Chee Seng (CC 48/96)	Depressive Psychosis	The accused, on the instruction of hallucinatory voices, stabbed the deceased who had rejected his love.	The accused had an increased risk of being a danger to himself or others and this risk period was indefinite.	Life imprisonment
PP v Donald Peter Chandaraj (CC 9/96)	Personality Disorder	The accused punched his 2 year old child to death for soiling his cot.	The accused was a threat to his family.	Life imprisonment

16. It would appear from the abovementioned cases that the courts have imposed sentences of life imprisonment in similar situations where mentally impaired offenders were convicted for committing culpable homicide not amounting to murder. To my mind, the concern addressed by the courts in the cases referred to were more in the direction of treatment, rehabilitation and prevention rather than deterrence or retribution. I was inclined to share the same view.

17. The accused in the case before me was apparently oblivious to the fact that the person whom he attacked – that too over a trivial pearl bracelet – was none other than his mother, as he was then in the throes of an epileptic seizure. I was in agreement with the expert opinion that the accused was indeed in need of a long and closely monitored treatment regimen, and if not afforded that, the likelihood of danger and harm to the public were not imaginary but real. In any event, in my view, the conditions for a long sentence set out in **R v Rowland Jack Foster Hodgson** (1968) 52 Cr App R 113 (per MacKenna J) and approved by the Court of Criminal Appeal in **Neo Man Lee v Public Prosecutor** [1991] 2 MLJ 369 at 370, by and large seemed to apply to the facts and circumstances of the case at hand. The conditions mentioned in **Hodgson** were:

A sentence of life imprisonment is justified when (1) the offence or offences are in themselves grave enough to require a very long sentence; (2) it appears from the nature of the offences or from the defendant's history that he is unstable and likely to commit such offences in the future; and (3) if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.

18. Consequently, having considered all the factors, I sentenced the accused to a term of imprisonment for life with a direction that the accused be given treatment on a regular basis for his illness whilst serving his sentence. In imposing the sentence, I was also mindful of the aspect that under Rule 119A of the Prisons Regulations, the accused might well receive a remission of sentence if the Life Imprisonment Review Board were to conclude at the appropriate stage that he would be suitable for such remission.

Order accordingly.

Sgd:

MPH RUBIN

Judge

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