

Public Prosecutor v Ng Kwang Lim
[2004] SGHC 85

Case Number : CC 16/2004
Decision Date : 29 April 2004
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : Winston Cheng and Deborah Tan (Deputy Public Prosecutors) for prosecution;
Subhas Anandan and Anand Nalachandran (Harry Elias Partnership) for accused
Parties : Public Prosecutor — Ng Kwang Lim

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

Criminal Procedure and Sentencing – Sentencing – Mentally disordered offenders – Whether life imprisonment appropriate.

29 April 2004

Woo Bih Li J:

1 The accused person, Ng Kwang Lim (“the Accused”), faced two charges. Under the amended first charge, the Accused was charged with the offence of culpable homicide not amounting to murder by causing the death of one Lee Kwok Hong by slashing him in the neck with a paper cutter which act was done with the intention of causing death, an offence punishable under s 304(a) of the Penal Code (Cap 224, 1985 Rev Ed).

2 Under the second amended charge, the Accused was charged with the offence of voluntarily causing grievous hurt to one Deborah June Chew Ai Sim by using a paper cutter to slash her on her face, causing permanent disfigurement, an offence punishable under s 326 of the Penal Code.

3 The Prosecution proceeded with the amended first charge to which the Accused pleaded guilty. I accepted his plea of guilt and convicted him on it. The Accused agreed to the amended second charge being taken into consideration for the purpose of sentencing.

4 The punishment under s 304(a) of the Penal Code is life imprisonment or imprisonment of up to ten years. The Accused was also liable to fine or caning.

5 In mitigation, the Defence submitted that the Accused was suffering from a mental illness that impaired his mental responsibility, an illness that was undetected, undiagnosed and untreated for many years. The Defence also submitted that the Accused accepted responsibility for his role and was sincerely apologetic to the family of the deceased. The Defence informed me that although the Accused was estranged from his parents for almost ten years, his relationship with them had improved. The Accused was confident that they will play an instrumental part in his recovery. The Defence urged that no caning be imposed.

6 The Prosecution pressed for life imprisonment on the basis that the Accused was a threat to society and could not be relied upon to take his medication. The Prosecution relied on reports from two psychiatrists which I shall elaborate on later, the case of *R v Hodgson* (1968) 52 Cr App R 113, and sentencing precedents. The Prosecution did not make a submission for caning.

The court’s decision

7 As can be seen, the main question before me was whether life imprisonment was an appropriate sentence for the Accused. The statement of facts, which the Accused agreed to, stated:

4 Investigations revealed that on 13 August 2003 at about 9.30 a.m., the Informant, 11 other senior staff and colleagues and the Deceased were having a Faculty Management Committee meeting at the Conference Room located at unit #07-26 of the Faculty of Engineering, NUS.

5 At the time, the Accused was in the vicinity as he was tasked with setting up the audio-visual equipment in the Conference Room and ensuring that it worked properly. ...

6 Shortly after the meeting began, the Accused opened the Conference Room door with a loud bang and went in. He had a paper cutter in his right hand. He walked briskly towards the Deceased, who at that juncture was sitting near to the entrance of the Conference Room and facing away from the Accused. The Accused went behind the Deceased and grabbed the latter's head with his left hand. He then slashed the Deceased's throat with the paper cutter in his right hand. The Deceased collapsed to the ground with blood gushing out from his neck.

7 Some of the Deceased's colleagues in the Conference Room tried to restrain the Accused who struggled and attempted to throw a kick at the Deceased. The others went to the Deceased's aid. The Accused managed to free himself and ran out of the Conference Room. He dropped the paper cutter he had been holding and ran off in the direction of the storeroom. There, he took a new paper cutter from the stationary supplies in the storeroom. In the meantime, those who were inside the Conference Room attended to the Deceased and locked the Conference Room door from the inside in order to prevent the Accused from re-entering the room.

8 The Accused returned moments later with the new paper cutter and struggled to open the locked door of the Conference Room from the outside. He was agitated and shouting that someone in the Dean's Office was playing "black magic" on him.

9 The [Accused] paced to and fro near the Conference Room. At one point, he tried unsuccessfully to unlock the side door to the Dean's private office. He then used a paper cutter to cut the wires running along the edge of the side door to the Dean's office, thus disabling the power supply to the staff card entry system. This prevented the side door from being opened from the outside. He also locked the main entrance to the Dean's office.

10 Thereafter, the Accused went on a rampage around the office wielding the second paper cutter. He subsequently went back to the storeroom to get a third paper cutter. Later on, he took a chair and sat in front of the door to the Conference Room, preventing the occupants from escaping. He held a paper cutter in his hand all the while.

11 The Police then arrived and unlocked the main entrance to the Dean's office. They then disarmed and arrested the Accused without a struggle.

8 Dr Stephen Phang, a consultant forensic psychiatrist and Deputy Chief of the Department of Forensic Psychiatry of the Institute of Mental Health and Woodbridge Hospital, provided two reports.

9 In his first report dated 1 October 2003, Dr Phang said that the Accused's parents and younger sister described a change in his behaviour following his paternal grandmother's demise in 1993 characterised by abnormal suspicions on his part. He had been close to the grandmother and after her demise, he accused his mother of not loving the grandmother and of putting black magic on him as

well as placing centipedes in his home. The acrimonious relationship came to a head when he insisted that his mother publish a notice in a daily Chinese newspaper that she disown him.

10 The Accused told Dr Phang that he had been the victim of black magic for over ten years. For the preceding two years before the offence, the black magic was accompanied with a hallucinatory voice. The Accused said his previous attempts to resist the black magic resulted in further forms of maltreatment such as sensations of needles poking his eyes and other parts of his body. He said that he had once dreamt of the deceased laughing at him. This was at a time several months before the offence.

11 In the morning of the offence, the Accused had experienced a sensation of needles poking him followed rapidly by a hallucinatory voice laughing at him and a force assuming control over him. The Accused claimed that the black magic had taken complete control of his being that day but Dr Phang disagreed. Dr Phang noted that the Accused had admitted that he had on his own accord appropriated new paper cutters to continue slashing although the rage to slash was principally delusion-driven. The Accused did not feel responsible or remorseful for the killing.

12 Dr Phang was of the view that at the time of the offence, the Accused was not of unsound mind. However, he was suffering from an abnormality of mind, namely paranoid schizophrenia, which substantially impaired his mental responsibility for his acts in causing the death of the deceased.

13 Dr Phang was also of the view that the long-standing nature and severity of the Accused's illness, coupled with the symptomatology elicited, meant that there was a significant risk of dangerous behaviour by the Accused to others notwithstanding his favourable response to treatment which would have to continue in the long term, and possibly on a permanent basis.

14 In Dr Phang's follow-up report dated 18 March 2004, Dr Phang said, *inter alia*:

Unfortunately, he remained unconvinced that his acts were the result of active mental illness. He elected instead to attribute his behaviour to the influence of "*black magic*". This would have significant and serious implications for his future potential to engage in similarly dangerous behaviour, as such individuals with no insight often do not recognize the need for long term treatment, and are therefore likely to default, resulting in relapse of active symptoms after a variable period of time. Under such circumstances, he would indubitably pose a significant risk to others, as well as himself. He would require supervised treatment, probably on a permanent basis.

15 There was also a report dated 20 December 2003 from Dr Lim Yun Chin, a psychiatrist from Raffles Hospital, who was attending to the Accused at Queenstown Remand Prison. That report stated, *inter alia*:

In my opinion, he would need the medication for an indefinite period to contain his psychotic symptoms. His mental illness is such that he would be prone to relapse if he is not on regular medication. He would also be vulnerable to the risk of relapse even if he's on medication although the risk is less than if he's not on medication.

He would pose a danger to others given his current condition. He couldn't be relied to take his own medication. He would require supervision for an indefinite period. It would be appropriate to place him in incarceration to ensure that he received treatment.

16 In *R v Hodgson*, the court listed three conditions for life imprisonment. The Court of Criminal Appeal in *Neo Man Lee v PP* [1991] SLR 146 was in broad agreement with these three conditions. The

conditions were again cited with approval by MPH Rubin J in *PP v Lim Hock Hin* [2002] 4 SLR 895. The conditions mentioned in *Hodgson* at 114 were:

[A] sentence of life imprisonment is in our opinion justified: (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.

17 In my view, the three conditions are a guide only. In any event, I agreed with the Prosecution that the three conditions had been met in the present case.

18 First, the offence under the amended first charge was grave enough to justify a sentence of life imprisonment although life imprisonment is not always imposed for such an offence.

19 Second, although the Accused had no criminal antecedent and no history of violent conduct, the circumstances and manner in which the offence under the amended first charge was committed demonstrated that the Accused was clearly of an unstable character likely to commit such offences in the future. He had attacked someone he hardly knew and who had no dispute with him previously or on the date of the offence itself, unlike some other cases where life imprisonment had been imposed.

20 Although the Defence submitted that the Accused accepted responsibility for his role and was sincerely apologetic to the family of the deceased, a report of Dr Phang mentioned his lack of insight that his act was the result of his mental illness.

21 Furthermore, the two psychiatrists I have mentioned have reported that the Accused required drug treatment for his mental illness for an indefinite period and that he was likely to default in taking medication if not supervised. Even if the relationship between the Accused and his parents, from whom he had been estranged for almost ten years, had improved, there was really nothing to suggest that that would assist him significantly in coping with his mental illness.

22 Thirdly, if future offences were to be committed by the Accused, the consequences would be likely to be very serious as could be seen from the amended first charge where a life was taken. Also, the Accused's wanton conduct did not stop after he had slashed the deceased. He went to get other paper cutters and continued slashing around as a result of which he disfigured another person's face permanently. This was the subject of the amended second charge.

23 After considering the facts before me and the submissions on sentencing, I was of the view that it was in the interest of society and the Accused himself that he be incarcerated for life. Accordingly, I sentenced the Accused to a term of imprisonment for life from the date of remand, *ie* 15 August 2003, with a direction that the Accused be given treatment on a regular basis for his illness whilst serving his sentence.

24 I have mentioned that the life imprisonment is from the date of remand as that may assist the prison authorities in determining when the Accused is eligible for consideration of remission of sentence under the Prisons Regulations (Cap 247, Rg 2, 2002 Rev Ed).

Accused convicted and sentenced to life imprisonment.