

Public Prosecutor v Hang Tuah bin Jumaat
[2013] SGHC 28

Case Number : Criminal Case No 4 of 2012
Decision Date : 29 January 2013
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Kavita Uthrapathy and Adrian Loo Yu Hao (Attorney-General's Chambers) for the Public Prosecutor; Gopinath Pillai and Aloysius Tan (TanJinHwee LLC) for Accused.
Parties : Public Prosecutor — Hang Tuah bin Jumaat

Criminal Law

29 January 2013

Choo Han Teck J:

1 The accused was about 38 years old when he was charged with 18 charges. Ten of the charges were for sexual offences. The remaining eight were for offences under the Road Traffic Act. The prosecution proceeded with the first and second charges before me. The remaining charges were not fixed for trial before me. The first and second charges read as follows:

That you, **Hang Tuah Bin Jumaat**

First Charge

sometime between 6 pm on the 21st day of April 2010 and 12am on the 22nd day of April 2010 in motor lorry bearing registration number YL 4802S, parked along a road near Kranji Camp, Singapore, did penetrate with your penis the vagina of one XXX (D.O.B. 15 September 1996), a woman then under 14 years of age, and you have thereby committed an offence under section 375(1)(b) punishable under section 375(2) of the Penal Code, Chapter 224.

Second Charge

between 5pm on the 21st day of April 2010 and 12am on the 22nd day of April 2010 from Sungei Kadut and to a road near Kranji Camp, Singapore, did drive motor lorry bearing registration number YL 4802S when you were not the holder of a valid Class 4 driving licence, and you have thereby contravened section 35(1) and committed an offence under section 35(3) punishable under section 131(2) of the Road Traffic Act, Chapter 276.

2 The prosecution adduced evidence from the wife of the accused to show that on the date in question she saw the accused drive motor lorry YL 8178J from the car park at their home in Boon Lay Drive. Ramdan, the former boy-friend of the complainant in the first charge, testified that the accused switched the first lorry for a bigger one bearing the registration number YL 4802S. He then picked up the complainant and Ramdan, and drove them to a road near the Kranji Camp. There, the

three of them started drinking vodka and orange. Eventually, the complainant became drunk, but was able to know that the accused raped her when she was in a drunken state. Her testimony included details that stuck in her mind. That included the moment when the accused paused to answer his cell phone. The accused then drove them back to Boon Lay Drive and told the complainant to sleep in the lorry. He also gave her \$5.00. The complainant went straight to school the next day where her school teacher questioned her. The complainant's mother and aunt had gone to see the teacher because the accused did not return home. In answer to the questions, the complainant told the teacher what had happened the previous night. The principal was informed and he called the police. The complainant was then brought to the hospital by the police for a medical examination.

3 The medical evidence showed that she had a hymenal tear. The complainant's clothing was taken for forensic examination. The forensic evidence showed that DNA belonging to the accused was found on various articles of the complainant's clothing, including her skirt, shorts, and brassiere. Ramdan's evidence corroborated the evidence of the complainant and he stated that the accused had driven him and the complainant to Kranji Road, and that there they had vodka and orange. Mohammad Hafiz, the supervisor of the accused, testified that the accused normally drove YL 8178J and was permitted to drive that lorry home. However, on 22 April 2010 he saw the accused driving YL 4802S to work. I accepted the evidence that this motor lorry required a Class 4 driving licence to be driven, a licence which the accused did not possess.

4 The accused denied the charges and claimed that he did not rape the complainant. He stated that he was at home at the time of the offence. During the trial, after the defence was called, he called his neighbour with the view of corroborating his defence. However, his witness could only testify that the accused often went to his flat to talk about birds, but he could not recall whether the accused was there on the night in question, namely 21 April 2010. In any event, the wife of the accused testified that the accused left their flat at about 7.15pm that day and only returned at about midnight, that is, on 22 April 2010.

5 I was of the opinion that the prosecution had proved its case beyond reasonable doubt that the accused had raped the complainant and that he was driving a motor vehicle, namely, YL 4802S, without the appropriate licence. I therefore convicted the accused accordingly and sentenced him to 12 years' imprisonment and 12 strokes of the cane in respect of the first charge, which was to take effect from 24 April 2010, and two months' imprisonment in respect of the second charge, which was to run concurrently with the term of imprisonment under the first charge. The accused has appealed against the sentence of 12 years' imprisonment and 12 strokes of the cane. On the facts this was not a difficult case in terms of sentencing because there was nothing exceptional by way of mitigation other than the fact that no violence was inflicted other than the act of rape. On the evidence, a case of this nature, without more, would warrant a sentence of imprisonment within a range of ten to 15 years. However, there were some complications in this case which might be due to the fact that the accused was not represented until it became obvious that he required advice, which, of course, must come only from defence counsel. The complications concerned the other charges which the accused, in spite of legal advice, declined to have this court take into consideration for the purposes of sentencing. Consequently, he will have to face trial and if convicted may result in him having to serve a far longer time in prison than he would have had he agreed to have the other offences dealt with in this court. All that was rendered academic and speculative given his decision.