

Public Prosecutor v Low Chuan Woo
[2014] SGHC 118

Case Number : Criminal Case No 21 of 2014
Decision Date : 25 June 2014
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Anamika Bagchi and Shahla Iqbal, DPPs, for the prosecution; Ram Goswami (Ram Goswami) and Cheng Kim Kuan (K.K. Cheng & Co) for the accused
Parties : Public Prosecutor — Low Chuan Woo

Criminal Law – Offences – Culpable Homicide – Sentencing

25 June 2014

Tay Yong Kwang J:

The Charges

1 The accused, who was born on 6 Dec 1968, pleaded guilty to the following Charges:

“1ST CHARGE (AMENDED)

are charged that you on the 14th day of January 2013 between 11.00 pm and 11.59 pm, at the ground floor of Blk 5 Changi Village Road, Singapore, did cause the death of one Mohamed Iskandar Bin Ishak, (male/45 years old), by stabbing him with a knife, which act was done with the intention of causing such bodily injury as is likely to cause 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.

3RD CHARGE (AMENDED)

are charged that you, between the 15th day of November 2012 and the 30th day of November 2012, in Singapore, did knowingly live in part on the earnings of the prostitution of one [redacted], female Filipino/ 25 years old, Philippine Passport No: [redacted], and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353.

6TH CHARGE (AMENDED)

are charged that you, sometime between the end of November 2012 and the 28th day of December 2012, in Singapore, did knowingly live in part on the earnings of the prostitution of one [redacted], female Filipino/ 29 years old, Philippine Passport No: [redacted], and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353.

8TH CHARGE (AMENDED)

are charged that you, between the month of October 2012 and 31st day of December 2012, at Blk 5, Changi Village Road #01-2015, 'Ramesses Entertainment', Singapore, did manage a place of assignation and you have thereby committed an offence punishable under Section 147(1) of the Women's Charter, Chapter 353."

2 The accused admitted the following Charges and gave his consent for them to be taken into consideration for the purpose of sentence:

"2ND CHARGE (AMENDED)

are charged that you, between October 2012 and December 2012, in Singapore, did knowingly live in part on the earnings of the prostitution of one [redacted], female Filipino/ 20 years old, Philippine Passport No: [redacted], and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353.

4TH CHARGE (AMENDED)

are charged that you, sometime between the end of October 2012 and the 25th day of December 2012, in Singapore, did knowingly live in part on the earnings of the prostitution of one [redacted], female Filipino/ 25 years old, Philippine Passport No: [redacted], and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353.

5TH CHARGE (AMENDED)

are charged that you, sometime in November 2012, in Singapore, did knowingly live in part on the earnings of the prostitution of one [redacted], female Filipino/ 26 years old, Philippine Passport No: [redacted], and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353.

7TH CHARGE (AMENDED)

are charged that you, sometime at the end of December 2012, in Singapore, did knowingly live in part on the earnings of the prostitution of one [redacted], female Filipino/ 27 years old, Philippine Passport No: [redacted], and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353."

The Statement of Facts ("SOF")

3 The SOF below sets out the circumstances leading to the offence. The accused admitted all the facts in the SOF without qualification. The SOF reads:

" Facts Relating to the 1st Charge

Introduction

1. The accused is one Low Chuan Woo (also known as Richard), a 45 year old Singaporean male bearing NRIC no: [redacted], residing at Blk 484 Pasir Ris Drive 4 #07-369. He is the owner and operator of Ramesses Entertainment, a pub located at Blk 5 Changi Village Road #01-2015.

2. The victim/deceased is one Mohamed Iskandar Bin Ishak, a 45 year old Singaporean male bearing NRIC no: [redacted], residing at Blk 701 Pasir Ris Drive 10 #11-113. At the time of the offence, he was working part-time with a company known as "Usatech (S) Pte Ltd" based in Loyang Offshore.

First Information Report

3. On 14 January 2013, at about 11.38 p.m. a female caller known as "Ms Jayanthi" called the police and reported: "*There are many people fighting with rods*". The location of the incident was given as "Changi Village Road, Carpark behind first coffeeshop".

4. Upon arrival of police resources at the scene, the Accused approached the police and informed them that there had been an altercation at the Ramesses pub between himself and a patron of the pub (the Deceased). The deceased and his friends were no longer at the scene.

Facts relating to the charge

5. On 14 January 2013 at about 6.00 pm, the deceased together with his nephew ("Muhamad Subir") and his brother-in-law ("Abdullah Bin Ismail") visited Changi Village for drinks. They decided to patronise Ramesses pub (for the first time) and had some beer and a bottle of whiskey.

6. As the deceased and his group were finishing the bottle of whiskey, a few Filipino women approached them at the table. These women were "performing artistes" employed by Ramesses pub. The Deceased and his group bought ladies' drinks for the women and a second bottle of Chivas Regal for themselves.

7. At around 11.30pm, the deceased (who had become intoxicated after drinking) became agitated when one of the Filipino performing artistes known as [redacted] (also known as Iris/Ariz) refused to drink a tequila shot that he had bought for her. The Deceased demanded to see the owner of the pub and started shouting "Boss! Boss!" The Accused (who was then seated outside the pub) heard the Deceased shouting and went into the pub to pacify him. However, the Deceased remained agitated and was shouting vulgarities at the accused. When he saw Ariz standing next to the Accused, he proceeded to splash a shot of tequila onto her face, causing the said Ariz to cry.

8. The accused tried reasoning out with the deceased but the deceased then grabbed hold of the Accused's neck and pulled him out of the pub through the rear door. A quarrel ensued and the deceased and accused ended up across the carpark, where the Deceased was seen grabbing the accused's shirt and neck.

9. The bartender of Ramesses pub, one Muhammad Nasrul Bin Mohammad Nahadi ("Nasrul"), and the deceased's brother-in-law, both went outside and tried to calm the deceased down. However, the deceased continued to be aggressive and punched Nasrul in his left eye. Nasrul was then pulled away by the deceased's brother in law.

10. The deceased also tried to push the Accused's head against the iron gate. The accused then managed to break free and ran back into the pub through the rear door. The accused retrieved a knife from the bar counter, and ran out the rear door again to confront the deceased using the knife.

11. In the ensuing fight, **the accused stabbed the deceased twice**. The deceased sustained a stab wound on his right upper arm and another stab wound at the back of his chest. Immediately after stabbing the deceased, the accused returned to the pub to place the knife in the sink. The Accused then grabbed a billiard cue and returned to the scene of the fight again.

12. By this time, the deceased was injured and bleeding profusely. The deceased's brother in law used his belt to tie a tourniquet around his arm to prevent further blood loss. The deceased's brother in law then told the deceased to stay put while he went to look for the deceased's nephew.

13. In the mean time, the deceased made his way towards the roadside and flagged down a taxi. He told the taxi driver to take him to the hospital. The deceased was subsequently pronounced dead at Changi General Hospital at 12.17 am on 15th January 2013.

Reports relating to the Deceased

Medical Report on Deceased [Tab A]

14. The deceased was seen by Dr. Ang Shiang -Hu at the Accident & Emergency Department of Changi General Hospital on 15 January 2013.

15. On arrival, he was "pulseless and apneic". Resuscitation efforts proved futile and he was pronounced dead at 0017 hrs. The likely cause of death was stated to be "exsanguinations due to penetrating trauma to patient's back".

16. The following was noted during the post-resuscitation exam:

- No visible head or face trauma.
- 2cm stab wound to right shoulder (right deltoid muscle).
- 2cm stab wound to the back near the midline, mid thoracic spinal region, unable to reach full depth with finger exploration.

Autopsy report on Deceased [Tab B]

17. The autopsy was performed by A/Prof Gilbert Lau on 15 January 2013 at 0945 hrs.

18. The autopsy report states that the Deceased suffered 2 stab wounds – one to the back of the chest and one to the deltoid region of the right arm. Both are approximately 11-12cm in depth.

19. The substantive cause of death is stated to be "**STAB WOUND TO THE BACK OF THE CHEST**". A/Prof Lau is of the view that death was primarily due to a stab wound to the back of the chest that had penetrated the lower lobe of the right lung, resulting in acute haemorrhage.

20. The features of both stab wounds are consistent with their being inflicted by a sharp object, such as a single-edged knife.

21. The contributory cause of death is "**SEVERE CORONARY ATHEROSCLEROSIS**". A/Prof Lau is of the view that it is likely that the Deceased's underlying heart disease would have

contributed to his death.

Toxicology report [Tab C]

22. The toxicology report dated 30th January 2013 confirms that the Deceased was heavily intoxicated at the time of his death, with 118mg of ethanol detected per 100ml of blood.

Reports relating to the Accused

Medical report on Accused [Tab D]

23. The accused was examined by Dr Lim Hock Hin of Healthway Medical Group Pte Ltd on 15th January 2013 at 1220 hrs for a pre-statement medical examination. Dr Lim Hock Hin, in his report dated 17th May 2013, noted that on examination, the accused was alert and his vital signs were stable. Dr Lim Hock Hin noted the following injuries:

- a. One 0.1cm length cut on top of 1.0 x 1.0cm contusion over lower lip;
- b. One 3.0cm length scratch over central chest region;
- c. One 3.0cm length scratch over mid-back region;
- d. One 2.0cm length scratch on top of a 1.0 x 1.0cm swelling over right elbow;
- e. Two 1.0 x 1.0cm abrasions over right elbow;
- f. One 1.0 x 1.0cm abrasion over left elbow.

24. The above injuries were noted to be "consistent with a history of blows from a blunt object".

Psychiatric report on the Accused [Tab E]

25. The accused was examined by Dr Jerome Goh Hern Yee, Consultant and Chief, Department of General and Forensic Psychiatry of the Institute of Mental Health (IMH). Dr Jerome Goh noted the following in his report dated 14th March 2013:

- i) That the accused has no mental illness. He reported sustained provocation from the deceased and claimed that the stabbing was an accident, and he was not under the influence of alcohol at the time.
- ii) The accused did not appear to be prone to impulsive and violent behaviours that might suggest an underlying personality disorder, as evidenced by information from himself and his friends and family.
- iii) The accused was **not of unsound mind at the time of the alleged offence**, in that he was aware of the nature and quality of his actions.
- iv) The accused is currently **fit to plead** in Court.

Conclusion

26. The accused did on the 14th day of January 2013 between 11.00 pm and 11.59 pm, at the ground floor of Blk 5 Changi Village Road, Singapore, the death of one Mohamed Iskandar Bin Ishak, (male/45 years old), by stabbing him with a knife, which act was done with the intention of causing such bodily injury as is likely to cause death, and he has thereby committed an offence of culpable homicide not amounting to murder punishable under Section 304(a) of the Penal Code, Chapter 224.

Facts Relating to the Other Charges

Introduction

27. The accused is one Low Chuan Woo (also known as Richard), a 45 year old Singaporean male bearing NRIC no: [redacted], residing at Blk 484 Pasir Ris Drive 4 #07-369. He is the owner and operator of Ramesses Entertainment, a pub located at Blk 5 Changi Village Road #01-2015.

28. The witnesses are:

A1: [redacted], female 20 years old

Philippine Passport No: [redacted].

Fin No: [redacted]

She is known as 'Nicole'

A2: [redacted], female 25 years old

Philippine Passport No: [redacted]

Fin No: [redacted]

She is known as 'Bea'

A3: [redacted], female 25 years old

Philippine Passport No: [redacted]

Fin No: [redacted]

She is known as 'Chloe'

A4: [redacted], female 26 years old

Philippine Passport No: [redacted]

Fin No: [redacted]

She is known as 'Ira'

A5: [redacted], female 29 years old

Philippine Passport No: [redacted]

Fin No: [redacted]

She is known as 'Lyka'.

A6: [redacted], female 27 years old

Philippine Passport No: [redacted]

Fin No: [redacted]

She is known as 'Mae'

A7: [redacted], female 32 years old

NRIC No: [redacted]

She is known as 'Anna' (Cashier at the said pub)

Background Facts

29 The accused and 5 other investors opened 'Ramesses Entertainment', a pub located at Blk 5 Changi Village Road #01-2015 sometime in 2007. The said pub employed female Filipinos to work as performing artistes and the accused confirmed that the witnesses A1-A6 were all performing artistes under the charge of 'Ramesses Entertainment'. Their lodging place was situated at the 2nd level of the pub.

30 Investigations revealed the accused had the knowledge that the witnesses (A1-A6) would go out of the pub with customers, to offer them sexual services and this practice was known as paying a 'Bar Fine'. A 'Bar Fine' was a sum of money paid to the witnesses for accompanying customers out of the pub to offer them sexual services. The accused was aware of the practice of the witnesses offering the customers sexual services and paying a bar fine. The accused had an arrangement with the witnesses with regards to the 'Bar Fine'. The witnesses (A1-A6) informed that during their working stint as performing artistes at 'Ramesses Pub', the accused would allow them to go out to provide sexual services to customers, if the said customers were willing to pay a sum of \$200 for a period of 4 hours. The witnesses would need to seek the accused person's permission before leaving the pub with a customer in order to provide sexual services. Usually the accused only allowed the witnesses to go out with the customers after the pub closed for businesses and only for the duration of 4 hours. The witnesses were expected to be back at the lodging place by 4 am in the morning. The accused would receive a cut of 50% from the sum of \$200 that would have been paid by the customers to the witnesses for having provided sexual services. As such, part of the prostitution earnings was given to the accused when the customers paid the witnesses for offering them sexual services.

Facts relating to the 3rd Charge

31 Investigations revealed that A2 was working as a performing artiste at the said pub. A2 went out on two occasions to provide sexual services to the same customer and thus had to pay 2 'Bar Fines' sometime on 15th November 2012 and 30th November 2012 respectively. A2's customer paid her \$200 each time for providing sexual services and A2 handed over \$100 to the accused as per the terms of her "Bar Fine" arrangement with the accused on both occasions.

Facts relating to the 6th Charge

32 Investigations revealed that A5 was working as a performing artiste at the said pub. A5 went out on two occasions to provide sexual services to customers and thus had to pay 2 'Bar Fines' sometime between November 2012 and 28th December 2012. A5's customers paid her \$200 each time for providing sexual services and A5 handed over \$100 to the accused as per the terms of her "Bar Fine" arrangement with the accused on both occasions.

Facts relating to the 8th Charge

33 Investigations revealed that accused had managed a place of assignation at Blk 5, Changi Village Road #01-2015, 'Ramesses Entertainment' between October 2012 and 31st day of December 2012. The accused had the knowledge that the witnesses (A1-A6) would go out of the pub with customers, to offer them sexual services and this practice was known as paying a 'Bar Fine'. The accused would receive a cut of 50% from the sum of \$200 that would have been paid by the customers to the witnesses for having provided sexual services. The accused had allowed the pub premises to be used by the witnesses A1-A6 for the purpose of securing customers to provide sexual services to, and also managed the said witnesses by stipulating the terms and conditions under which they could go out with customers to provide sexual services.

Conclusion

34 The accused is charged accordingly.

Previous convictions and remand

4 The accused was fined \$50 in 1987 for the offence of using abusive language. In 2008, he was fined \$600 for the offence of affray and \$800 for having committed mischief.

5 The accused was arrested on 16 January 2013 and has been in remand since that date.

The prosecution's submissions on sentence

6 For the charge under s 304(a) of the Penal Code, the prosecution submitted that the court ought to sentence the accused to at least 12 years' imprisonment and caning. For the two charges under s 146(1) of the Women's Charter, the prosecution suggested a sentence of 4 to 6 months' imprisonment for each charge. In respect of the charge under s 147(1) of the Women's Charter, the prosecution suggested a sentence of 3 to 6 months' imprisonment.

7 The prosecution argued that the accused had acted disproportionately. He had managed to break free from the deceased but, instead of escaping from the fight or calling for help, he ran back into the pub to get a knife and returned to confront the deceased. The accused therefore ceased to be a victim at that point and turned into an aggressor. After the stabbing, the accused again went back into the pub and returned with a billiards cue. It was agreed that the accused did not use the billiards cue to attack the deceased. The deceased was unarmed throughout the fight and was defenceless against the knife attack. The accused got away with minor scratches, cuts and abrasions.

8 As a result of the amendments made to the Penal Code with effect from 1 February 2008, the maximum imprisonment term (other than a sentence of life imprisonment) for s 304(a) was increased from 10 to 20 years. While accepting that the Court of Appeal in *PP v Tan Kei Loon Allan* [1998] 3

SLR(R) 679 has stated that sentencing for culpable homicide should be determined on the facts of each case as there is no such thing as a "typical" homicide, the prosecution argued that cases to which the 2008 amendments to the Penal Code applied should carry greater weight than those which were decided under the previous law. Several decisions decided pre-2008 amendments and post-2008 amendments were cited for guidance.

9 For the charges under the Women's Charter, the case law from the State Courts shows a range of 4 to 6 months' imprisonment for s 146(1) charges and a range of 3 to 6 months' imprisonment for s 147(1) charges.

The mitigation plea

10 The 45 year old accused was educated up to GCE N level. He is single and lived in a public housing flat with his 73 year old mother and a younger sister. He used to be a taxi driver before setting up the pub in 2007.

11 The accused has pleaded guilty. While fines could be imposed for the offences under the Women's Charter, he would be unable to pay the fines. Defence counsel therefore asked that a short custodial sentence be imposed, with only 2 imprisonment terms to run consecutively.

12 In respect of the s 304(a) Penal Code charge, it was submitted that a term of 3 years' imprisonment would be a fair sentence. Caning should not be imposed. His plea of guilt has saved considerable time for all. It also showed his deep remorse. He cooperated fully during the investigations. It was the intoxicated deceased who started the incident and the accused was the victim of his prolonged verbal abuse and physical violence. The accused showed restraint throughout the incident and did nothing to provoke the deceased's rage. He was shocked by the deceased's treatment of the women in the pub. The stabbing was not premeditated and was committed out of the accused's fear for his life. There is no likelihood of a recurrence of such an incident.

13 The deceased was a "raging bull who had gone berserk". He was 1.7m tall and weighed 97 kg. He was muscular and had both arms heavily tattooed. In contrast, the 1.68m tall accused weighed only about 60 kg at the material time. The deceased posed a grave threat to the accused.

14 Citing several cases decided under s 304(b) of the Penal Code, defence counsel submitted that the particular combination of extenuating circumstances of this case took it outside the precedents in s 304(a) cases and brought it within the scope of the s 304(b) cases. Caning should therefore not be ordered on the facts of this case.

15 The accused was a victim of circumstances. While he did not seek trouble, trouble came looking for him. His business had collapsed. His ardent wish is to be reunited with his mother to whom he is very close.

The decision of the court

16 Under s 304(a) of the Penal Code, whoever commits culpable homicide not amounting to murder shall, 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, be punished with imprisonment for life and shall also be liable to caning. Alternatively, the accused could be imprisoned for a term which may extend to 20 years and he shall also be liable to fine or to caning. For the offences under the Women's Charter, s 146(1) provides for imprisonment of up to 5 years and a liability to a fine not exceeding \$10,000 while s 147(1) provides for a fine not exceeding \$3,000 or imprisonment not exceeding 3 years or both in

the case of a first conviction.

17 While it is sad that the deceased had to die a violent death, it is hard not to conclude that much of the tragedy was caused by him. The accused was, quite literally, minding his business outside his pub when the deceased started the unfortunate chain of events that led to his untimely demise. At each stage, while the accused and his staff were trying to appease the drunk and raging deceased, he was implacable and seemed bent on insulting and assaulting whoever came into his path. The accused showed considerable restraint before he was provoked beyond what any normal person could reasonably bear in the situation.

18 It could not be disputed that the deceased, who weighed 97 kg (about 214 pounds) and stood at 1.7 m in height, was a considerably larger (although not much taller) man than the accused who is 1.68 m tall and weighed only about 60 kg at the time of the incident. With the deceased behaving the way he did that night both inside and later just outside the pub, it was not surprising that the accused eventually felt that he had no choice but to arm himself. Unfortunately, he found a fruit knife, went out of the pub and engaged the deceased in further altercation. That was probably the only wrong and foolish thing that the accused did. Of course, with the calmness of hindsight, we could say that, having freed himself from the unwarranted and continual attacks, he ought to have escaped to a safe place and called the police. That would, however, unfairly ignore the urgency to quell the violence and to diminish the danger that was thrust upon the accused and his staff that night.

19 The stabbing took place in the course of a fight with the deceased. There were 2 stabs, one to the right upper arm and the other to the back of the deceased's chest. The one to the back caused the fatality but the deceased's pre-existing heart condition also contributed to his death. The autopsy report classified these as the "substantive cause" and the "contributory cause" of death.

20 It is true that the accused went back into the pub after the stabbing, placed the knife in a sink and then went out of the pub again with a billiards cue. It is equally true that the accused did not return to assault the wounded deceased further with what he had in his hands. He was also there to meet the police officers when they arrived a little later.

21 It is clear that the accused did not want any trouble that night. He was not drunk. He was merely trying to run a business although, as the other charges show, he was also involved in illegal activities but those had nothing whatsoever to do with the events that night. The fruit knife and the billiards cue that he was forced to take up were everyday items used or available in the pub. They were certainly not kept as weapons. There was a pool table in the pub and the cue happened to be there.

22 The accused's antecedents concern the use of abusive language, affray and mischief. Those took place in 1987 and in 2008 and resulted in fines. However, his non-violent reaction to the deceased's intense provocation before he went to take the knife spoke well of his character in 2013 and showed maturity of thought. Certainly, he could not be said to be the trouble-maker on the night of the incident.

23 The accused has pleaded guilty and cooperated in the investigations.

24 I am aware that the precedents cited by defence counsel relate to charges under s 304(b) of the Penal Code instead of s 304(a). Offences under the first provision are subject to a lower tier of punishment than those under the second provision. That was true at the time the cited cases were decided and it is still true under the present s 304(a) and (b). Before the Penal Code was amended on

1 February 2008, s 304(b) also did not provide for caning. It also did not, and still does not, prescribe a mandatory custodial sentence.

25 In the circumstances of this case, I do not think that the accused deserves to be caned. The violence was practically forced out of him by the deceased's persistent and totally uncalled for provocation and assault. An imprisonment term of 4 years would be sufficient punishment for the offence under s 304(a) of the Penal Code. For the offences under the Women's Charter, I sentence the accused to 4 months' imprisonment for each of the three charges. No underage female was involved but there are 4 other charges taken into consideration. The imprisonment terms for the third and the eighth charges are to run consecutively with the imprisonment term under s 304(a), making a total sentence of 4 years and 8 months with effect from the date of his arrest on 16 January 2013. The sentence for the sixth charge is to run concurrently with the rest of the sentences.

26 The case exhibits may be disposed of by the police after any appeal has been dealt with or after the period for an appeal has lapsed.