

Public Prosecutor v Purushothaman a/l Subramaniam
[2014] SGHC 231

Case Number : Criminal Case No 27 of 2014
Decision Date : 10 November 2014
Tribunal/Court : High Court
Coram : Tan Siong Thye J
Counsel Name(s) : Lau Wing Yum and Seraphina Fong (Attorney-General's Chambers) for the Prosecution; Rengarajoo s/o Rengasamy and Prasad s/o Karunakarn (B Rengarajoo & Associates) and Ong Lip Cheng (Templars Law LLC) for the accused.
Parties : Public Prosecutor — Purushothaman a/l Subramaniam

Criminal procedure and sentencing – sentencing – conviction

10 November 2014

Tan Siong Thye J:

Introduction

1 On 28 October 2014, the accused, Purushothaman a/l Subramaniam, was convicted of importing 75.41g of diamorphine into Singapore under s 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”). The full grounds of my decision with respect to his conviction can be found in *Public Prosecutor v Purushothaman a/l Subramaniam* [2014] SGHC 215.

2 Later, the accused was sentenced to life imprisonment and 15 strokes of the cane. The accused has appealed against my sentence and these are my grounds for the sentence I imposed.

A summary of the facts

3 The accused was arrested on 26 March 2012 after his motorcycle was searched and a black bundle containing three packets of a brownish granular substance was found on it. Upon analysis, it was discovered that the brownish granular substance contained a total of 75.4g of diamorphine. He was charged under s 7 of the MDA and the Prosecution relied on the statutory presumptions of knowledge and possession in s 18 of the MDA to prove its case.

4 On the facts, I found that the Prosecution had proven beyond a reasonable doubt that the accused had committed the offence he was charged with and convicted the accused accordingly.

Sentence

5 Under normal circumstances, the accused would have faced the death penalty as per s 33 read with the Second Schedule of the MDA. However I am empowered under s 33B to sentence him to life imprisonment and 15 strokes of the cane if certain conditions are met. The relevant portions of s 33B read as follows:

33B.—(1) Where a person commits or attempts to commit an offence under section 5(1) or 7,

being an offence punishable with death under the sixth column of the Second Schedule, and he is convicted thereof, the court —

(a) may, if the person satisfies the requirements of subsection (2), instead of imposing the death penalty, sentence the person to imprisonment for life and, if the person is sentenced to life imprisonment, he shall also be sentenced to caning of not less than 15 strokes; or

...

(2) The requirements referred to in subsection (1)(a) are as follows:

(a) the person convicted proves, on a balance of probabilities, that his involvement in the offence under section 5(1) or 7 was restricted —

(i) to transporting, sending or delivering a controlled drug;

(ii) to offering to transport, send or deliver a controlled drug;

(iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or

(iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and

(b) the Public Prosecutor certifies to any court that, in his determination, the person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore.

[emphasis added]

6 The accused had received a Certificate of Substantial Cooperation from the Attorney General's Chambers. I also found that on the facts of his case, he had successfully shown on a balance of probabilities that he was merely a courier, thus satisfying s 33B(2)(a)(i) of the MDA. Therefore I did not mete out the death penalty. Instead I sentenced the accused to the statutory prescribed life imprisonment.

7 In considering how many strokes of the cane should be meted out, I noted that the accused was only 21 years old when he committed the offence, with his main motivation for trafficking the drugs being his mother's poor health and his desire to pay for his mother's medical bills. He was also a first-time offender. I disregarded his admissions to having trafficked drugs for many times prior to his arrest and regarded him as a first offender. There were also no aggravating features in his case. Last, the accused was cooperative throughout the investigation process. In the circumstances, I impose the minimum of 15 strokes.