

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 107

Criminal Case No 62 of 2015

Between

Public Prosecutor

... Public Prosecutor

And

Muhammad Nur Sallehin
Bin Kamaruzaman

... Accused

FOUNDATIONS OF DECISION

[Criminal Law] — [Statutory offences] — [Misuse of Drugs Act] – [Illegally importing controlled drugs]

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Public Prosecutor
v
Muhammad Nur Sallehin bin Kamaruzaman

[2017] SGHC 107

High Court — Criminal Case No 62 of 2015

Kan Ting Chiu SJ

23–26 November 2015, 1 December 2015, 16, 22–24, 27–28 June 2016, 5, 18, 26 July 2016, 3 August 2016; 14 February 2017

11 May 2017

Kan Ting Chiu SJ:

1 These grounds of decision are written in response to an appeal against a sentence of life imprisonment and 15 strokes of the cane, which I imposed on the Accused, Muhammad Nur Sallehin Bin Kamaruzaman. The Accused was convicted on the charge that he:

on 7 February 2012 at about 5.29pm, at the Woodlands Checkpoint, Singapore, together with one Nur Dianey Mohamed Salim (NRIC No. S XXXXXXXXX) and in furtherance of the common intention of [them], did import a Class 'A' controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("the Misuse of Drugs Act"), to wit, three packets containing 493.5 grams of crystalline substance which were analysed and found to contain not less than 378.92 grams of methamphetamine, without any authorisation under the said Act or the Regulations made thereunder, and [he had] thereby committed an offence under section 7 of the Misuse of Drugs Act read with section 34 of the Penal Code (Cap 224, 2008 Rev Ed) ("the Penal Code") and

punishable under section 33 of the Misuse of Drugs Act, and further, upon [his] conviction under section 7 of the Misuse of Drugs Act read with section 34 of the Penal Code, [he might] alternatively be liable to be punished under section 33B of the Misuse of Drugs Act.

2 The Accused claimed trial to the charge but after a twelve-day trial he was found guilty. Upon his conviction, the Prosecution and the Defence confirmed that the Accused was a courier for the purposes of s 33B(2)(a) of the MDA, and the Prosecution tendered the Public Prosecutor's certificate issued under s 33B(2)(b) that the Accused had rendered substantive assistance to the Central Narcotics Bureau in disrupting drug trafficking activities.

3 In the circumstances, the Accused came under s 33B(2)(a) and s33B(1)(a), and is liable to be sentenced to death or to the alterative sentence of life imprisonment and caning of *not less than* 15 strokes. The Prosecution did not seek for the death penalty to be imposed on the Accused.

4 The sentence under appeal was imposed on the Accused on 14 February 2017, with the custodial sentence backdated to commence from the date of his arrest, 7 February 2012.

5 The Accused filed a Notice of Appeal on 22 February 2017 against the sentence, on the ground that it is manifestly excessive. He has not appealed against his conviction.

6 The Accused was represented by counsel during the trial and sentencing. However, he has filed the appeal in person against the sentence

although it is the *minimum sentence* prescribed by s 33B(1)(a) of the MDA which allows for a sentence of life imprisonment and caning of 15 *or more* strokes.

Kan Ting Chiu
Senior Judge

David Khoo and Quek Jing Feng (Attorney-General's Chambers) for
the Prosecution;
Suresh s/o Damodara (Damodara Hazra LLP) and Sankar s/o Kailasa
Thevar Saminathan (Sterling Law Corporation) for the Accused.