

Public Prosecutor v Rohana
[2006] SGHC 52

Case Number : CC 8/2006
Decision Date : 28 March 2006
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : Jaswant Singh, Mark Tay and Jean Kua (Deputy Public Prosecutors) for the Prosecution; Mohamed Muzammil (Muzammil Nizam & Partners) for the accused
Parties : Public Prosecutor — Rohana

Criminal Law – Offences – Culpable homicide – Accused charged with culpable homicide not amounting to murder of her employer – Whether culpable homicide not amounting to murder established-Section 304(a) Penal Code (Cap 224, 1985 Rev Ed)

Criminal Procedure and Sentencing – Mitigation – Whether accused's circumstances taken into consideration in sentencing

28 March 2006

Woo Bih Li J:

1 The accused, Rohana, faced a charge of culpable homicide not amounting to murder. The charge read:

That you, ROHANA

on or about the 3rd day of July 2005, sometime between 7.58 a.m. and 9.57 a.m., at Block XXX #XX-XX, Singapore, did commit culpable homicide not amounting to murder by causing the death of one A, female aged X years, to wit, by strangulating the said A, which act was done with the intention of causing her death, and you have thereby committed an offence punishable under section 304(a) of the Penal Code, Chapter 224.

2 The accused entered a plea of guilt to the charge. I accepted the plea and convicted her accordingly.

3 The offence carries a maximum penalty of life imprisonment or imprisonment of not more than ten years, with a possible liability of fine and caning as well which were not in issue before me.

4 The circumstances in which the offence was committed are found in the Statement of Facts ("SOF") which reads:

Introduction

The accused is Rohana (Passport No: AH 30769, FIN No: G7574839 L) female/21 years old (DOB: 4 Mar 1985). She is an Indonesian national. At the time of the offence, she was working as a domestic maid for the deceased. She started work for the deceased on X XX 2004.

2 The deceased is A, female/X years old at the time of her demise. She ran a X business. She resided at Block XXX #XX-XX with her two daughters.

First Information Report

3 Sometime past 7 am on 3 July 2005, Madam B, who lived at Block XXX #XX-XX (directly below the deceased's unit), heard a loud sound coming from the deceased's unit. It sounded like something heavy had dropped on the floor. Shortly after, she heard voices of a female in distress coming from the same unit. She woke her husband, and together they went up to the deceased's unit. Finding the wooden door and metal gate of the unit locked, they pressed the doorbell repeatedly but there was no response. They then returned to their flat. Whilst she was in the kitchen of her flat, she heard the deceased shouting, "*help ... somebody going to kill me*". She then called the police.

4

Scene of crime

5 After calling the police, Madam B and her husband went up to the deceased's unit again. Her husband banged on the door and rang the doorbell repeatedly. Madam B heard the deceased shout from inside the unit, "*Chew ming! Chew ming!*" (meaning "help me help me" in Mandarin). Whilst they were there, at about 8.16 am, Sgt Buyung and Cpl Ong arrived. She told the officers what she had heard earlier.

6 Despite identifying themselves as police officers and repeatedly knocking on the wooden door, there was no response from within the unit. Cpl Ong heard the sounds of heavy object(s) being shifted inside the unit. After about 15 minutes, a female voice, later ascertained to be that of the accused, informed them in English that she could not open the door as her employer was not in and that she would be scolded if she opened the door. At this juncture, Cpl Ong noticed that the peep hole of the wooden door had brightened up slightly as if some obstacle had been removed from it. Sgt Buyung tried to converse with the accused in Bahasa Indonesia but she did not respond. After several more unsuccessful attempts by the officers to persuade the accused to open the door, they notified their team leader, SI Masrun Ahmad (SI Masrun) and sought assistance.

7 At 8.40 am SI Masrun, SSS Eve Boon Yen Kian (SSS Eve), and SC/Cpl Gopinath (Cpl Gopinath) arrived at the scene. SI Masrun then identified himself as a police officer and tried to persuade the accused to open the door. She refused claiming that her "Ma'am" was out and would scold her if she opened the door. SI Masrun informed her that he would have to force open the door if she continued to refuse. Shortly thereafter, the accused stopped talking. SI Masrun heard splashing sounds from within the unit as if water had been poured onto the floor. The Singapore Civil Defence (SCDF) was activated to break open the doors.

8 At 9:09am, the SCDF officers arrived at the scene and subsequently broke open the doors of the unit at #XX-XX.

9 Upon entering the unit, the police officers found blood splatters and stains on the side wall in the living room as well as in the kitchen toilet. All the doors in the unit were closed but unlocked except the door of the master bedroom. SI Masrun found the deceased lying motionless in the storeroom, drenched in blood, and under an ironing board, a trolley and a mop. The SCDF officers forced open the door of the master bedroom. Inside, Cpl Ong found the deceased's two daughters sitting on the bed. Sgt Buyung and SSS Eve found the accused hiding behind some clothes in the wardrobe in the master bedroom.

10 At 9.53 am, SCDF officer Sgt Jamil Bin Ali arrived at the scene and examined the deceased. He pronounced the deceased dead at 9.57 am.

11 The accused was arrested at the scene. She was sent for medical examination at the Alexandra Hospital the same day. She was noted to have minor superficial injuries on her right and left palms, fingers, thighs, knees and feet.

Cause of Death

12 An autopsy was performed by Dr Clarence Tan, Principal Consultant Forensic Pathologist at the Health Sciences Authority, on 4 July 2005 at 11.29 am. A total of **75** external injuries were found on the body of the deceased. The salient injuries were, (i) fractures of her front upper two incisors, (ii) deep laceration over the right eyebrow and (iii) a 2 cm crack fracture of the right eye socket. Dr Tan certified the cause of death to be manual strangulation.

Circumstances leading to the death of the deceased

13 Investigations revealed that sometime in the early morning on 3 July 2005, the deceased, her two daughters and the accused were in the deceased's flat. The daughters were sleeping in the master bedroom. The accused was sleeping on a mattress in a separate room.

14 According to the accused, the deceased came into her room to wake her up as it was already 7 am. The accused did not wake up immediately, and continued to lie on her mattress. The deceased scolded the accused and pushed her right cheek. A scuffle ensued and the accused grabbed a large crystal ornamental stone from a cupboard and used it to hit the deceased on the forehead. The deceased started bleeding from her forehead and fell backwards. The ornamental stone slipped out of the accused's hands and fell onto the floor.

15 The said large crystal ornamental stone was ascertained to be an amethyst geode weighing about 10.5 kg and was approximately 37 cm high.

16 After being hit, the deceased got up and went to the living room, calling for her elder daughter, C. She appeared dizzy. Fearing that C would wake up and call the police, the accused picked up the ornamental stone and approached the deceased, who was by then lying on the sofa in the living room. The accused brought the ornamental stone down with great force onto the deceased's head. The ornamental stone broke upon impact with the deceased's head, and the deceased began bleeding profusely. She cried out in pain and called out for C. The accused pulled the deceased off the sofa and the latter fell onto the floor. She covered the deceased's mouth with her hand to prevent her from shouting. The deceased struggled and managed to bite the accused's right ring finger and used her left leg to try to push the accused away. The accused picked up a piece of the broken ornamental stone and hit the deceased's head again with great force. She then placed her hands on the deceased's neck. The deceased pleaded "*sorry Na, sorry Na, I love you I love you*".

17 According to the accused, at this point, the doorbell began ringing and the deceased shouted for help by calling out "*Jui Ming ya. Jui Ming ya*" ("help me" in Mandarin). The accused dragged the deceased by the hair to the kitchen toilet. According to the accused, she dragged the deceased to the kitchen toilet as it was away from the living room and the bedroom where the children were sleeping. The deceased groaned in pain and cried out "*call police, call police wa wa*". En route to the toilet, the accused banged the deceased's head into the wall to stop her from shouting.

18 Inside the toilet, the deceased again shouted "*chew ming*". The accused banged the deceased's head three times on the floor to stop the shouting. In the toilet at this point, the

accused could still hear the doorbell ringing and voices shouting outside. The accused recognised the voice as that of a neighbour from the 10th floor. According to the accused, the deceased had gestured to her whilst at the doorway of her bedroom earlier as if she was going to hit her. As such, whilst in the toilet, the accused asked the deceased, *"why you want to make me die? If you want make me die, you must die, I also die"*. The deceased said, *"you cannot die, you got father, mother. I also cannot die. Mei Mei (referring to younger daughter) small, Jie Jie (referring to elder daughter) small must have people take care of her"*. The accused then lifted the deceased up by the hair and dragged her from the toilet to the store room.

19 According to the accused, she dragged the deceased to the storeroom as it had no windows and, as such, the deceased's shouts for help would not be heard.

20 At the storeroom, the deceased struggled to break away from the accused's restraint but was unable to do so in her weakened state. The deceased pleaded with the accused, *"Ana sorry lah"*. The accused retorted, *"like that already you said sorry"*. The deceased pleaded, *"Ana let me talk first"*. The accused said *"No"* in a harsh tone. Thereafter, the accused used her hand and strangled the deceased. The deceased struggled to remove the hand. The accused continued to squeeze on the throat until the deceased stopped moving. She then checked the pulse of the deceased and ascertained that the deceased had died.

21 According to the accused, as she stepped out of the storeroom, she heard the door bell of the unit ringing and also voices shouting outside for the door to be opened. She was able to see through the peephole that her neighbours from the unit below were outside the door. She lied to say that she could not open the door as her employer was still sleeping. Thereafter, she started sweeping up the pieces of broken crystal in the living room and used several towels to wipe the bloodied areas of the floor in the living room, the store room and the fridge. Throughout this time, the door bell was ringing and there were knocks and repeated requests for her to open the door but she repeatedly lied that her Madam was out and would not allow her to open the door. She also stuffed a small piece of tissue paper into the peephole of the door and switched off the door chime from the kitchen.

22 According to the accused, at one stage, she removed the tissue paper from the peephole and saw five police officers standing outside the door. The accused hurriedly continued to clean up the living room and the store room with wet towels. She found a small cardboard box and placed several bloodstained wet towels in it. She placed some clothes on top of this box to conceal the soiled towels and kept the box in one of the shelves of the wardrobe in her room. She also picked up the broken pieces of the ornamental stone and threw these into a pail in the kitchen. She then washed her face and bloodstained hands. She straightened the furniture in the living room. At this juncture the deceased's younger daughter, D, came out of the master bedroom and asked her where the deceased was. The accused replied that *"mummy"* had gone to office and led D back to the master bedroom. The accused then locked the door of the master bedroom and hid herself in the wardrobe where she was eventually found by the police officers.

23 The accused admitted to hitting the deceased with the ornamental stone and strangling her.

5 According to the mitigation plea, the accused's daily routine was to wake up at 5.30am and work until 2.00am. On 2 July 2005, the deceased had scolded the accused for not washing a wok properly. The accused eventually went to bed at 2.00am and was totally exhausted. The next morning at about 7.00am, the accused was awakened by the deceased who was at the door of the bedroom. Being tired still, the accused however continued to lie in bed. When the deceased came into

her bedroom, she said, "Ana why you still sleep so many things to do stupid *lah* you very *jak lak* I cannot *tahan* you." The deceased then pushed the right cheek of the accused. This led to the scuffle which is described in the SOF.

6 In *Purwanti Parji v PP* [2005] 2 SLR 220 ("*Purwanti*"), an Indonesian maid who was almost 18 years of age had killed a lady who was 57 years of age. The deceased was the mother-in-law of the maid's employer. The maid was charged with an offence punishable under s 304(a) of the Penal Code (Cap 224, 1985 Rev Ed). She was sentenced to life imprisonment by the High Court and the Court of Appeal upheld that sentence.

7 In *PP v Sundarti Supriyanto (No 2)* [2004] SGHC 244 ("*Sundarti*"), the maid had killed her employer and was facing a charge of murder. She was convicted on a reduced charge punishable under s 304(a) of the Penal Code. In sentencing, the court took into account other charges including a charge under s 304(a) involving the death of a child of the employer. The accused was sentenced to life imprisonment.

8 In *PP v Juminem* [2005] 4 SLR 536 ("*Juminem*"), the two accused were also charged with the offence of murdering a woman who was 47 years of age. The first accused was her maid and the second accused was the maid of the second husband of the deceased. The second accused had agreed to the first accused's suggestion to kill her employer. The court found both accused not guilty of murder because of diminished responsibility and convicted them instead of the offence of culpable homicide not amounting to murder under s 304(a) of the Penal Code. The first accused who was 18 years of age was sentenced to life imprisonment and the second accused who was 15 years of age was sentenced to ten years' imprisonment.

9 Mr Muzammil, counsel for the Defence, stressed the simple background of the accused and the history of abuse she had suffered which included, among other things, physical violence like the slapping of the accused by the deceased. The accused had attempted to commit suicide twice and there was no premeditation. He also submitted that in *Purwanti*, the accused had attacked the victim who was sleeping in that case. Mr Muzammil also tendered the accused's apology for causing the death of the deceased.

1 0 Mr Jaswant Singh for the Prosecution submitted that a term of life imprisonment was appropriate. He said that the three other cases cited above indicated a sentencing norm. He stressed the violent nature of the accused's actions that fateful day which resulted in 75 external injuries on the deceased and her refusal to stop even though the deceased had begged to be spared because of her two young children. He submitted that the accused had full control of the situation as well as her mental faculties and had not acted out of a momentary loss of self-control.

1 1 He submitted that the accused also had avenues for help. She had been advised by a doctor who had examined her when she was "unwell" to report any physical violence to the police. I would add that the doctor also advised her to contact her maid agency to sort out any unhappiness in her relationship with her employer. Mr Singh also pointed out that the accused had a sister living in Singapore whom she could have turned to for help. Mr Singh further submitted that the accused had also the presence of mind to attempt to cover up her crime and the calm manner in which she did so demonstrated a lack of remorse.

1 2 Mr Singh submitted that the three conditions to be satisfied before a life imprisonment is imposed, as reiterated by the Court of Appeal in *Purwanti*, were satisfied in the case before me. However, I was of the view that the fact that the three conditions were satisfied did not necessarily mean that a sentence of life imprisonment should be imposed and "the court must exercise caution

before commuting a young offender to life imprisonment, especially since life imprisonment now means imprisonment for the rest of the prisoner's natural life": *per* Yong Pung How CJ in *Purwanti* at [25].

1 3 I did not think that the three cases cited indicated a sentencing norm for cases under s 304(a) where a maid has killed an employer or a relative of the employer. Even if they did, they did not restrict the court's power to impose such a sentence as the court considered appropriate in the particular circumstances of the case.

1 4 A key feature which distinguished the case before me from *Purwanti* and *Juminem* was that the actions of the accused persons in those cases were premeditated. The judgment in *Sundarti* on sentencing does not indicate whether the actions there of the accused were premeditated. In any event, as I have mentioned, the accused's actions there caused the death of two lives resulting in a charge under s 304(a) being taken into consideration in sentencing. True, Rohana had also sought to cover up her crime but not in the manner that *Sundarti* did by starting a fire. I would add that there were various aggravating factors in *Purwanti*.

1 5 As for the 75 injuries inflicted on the deceased, most were minor. As for Mr Singh's submission that Rohana had full control of her mental faculties, this was not quite correct. Dr Tommy Tan, a consultant psychiatrist at Woodbridge Hospital, had opined that Rohana was suffering from an abnormality of mind, arising from her moderately severe depressive episode, which substantially impaired her mental responsibility. Accordingly, he was of the view that she qualified for the defence of diminished responsibility. I would add that I should not be taken to suggest that life imprisonment is inappropriate for all such cases. Indeed, at times, the mental state of an accused person may require life imprisonment to be imposed.

1 6 It is obvious that maid abuse cannot be condoned in our society but it is equally clear that acts of violence, which are not in self-defence, by maids against their employers cannot be tolerated, especially when such acts result in a fatality. I was concerned about what appeared to be a recent spate of incidents of maids killing their employers which must obviously be discouraged. The presence of physical or other abuse by an employer means that the maid should seek to remove herself from the situation, which can at times be quite desperate. If help is needed, then such help should be sought. All these should be done sooner rather than later. A history of physical or other abuse can never justify or be an excuse for a killing.

17 Nevertheless, having considered all the circumstances before me, including the absence of premeditation, I did not consider life imprisonment to be appropriate. I also did not consider a term of five to eight years suggested by Mr Muzammil to be an adequate sentence. Accordingly, I sentenced the accused, Rohana, to imprisonment for ten years from 4 July 2005, being the date of her remand.

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