

Public Prosecutor v Mohamed Noh Hafiz bin Osman
[2003] SGHC 207

Case Number : CC 35/2003

Decision Date : 12 September 2003

Tribunal/Court : High Court

Coram : Tay Yong Kwang J

Counsel Name(s) : G Kannan and Shirani Alfreds (Deputy Public Prosecutors) for the prosecution;
John Abraham (John Abraham) for the accused

Parties : Public Prosecutor — Mohamed Noh Hafiz bin Osman

Criminal Procedure and Sentencing – Sentencing – Multiple sex offences and robbery – Young offenders – Whether reformative training appropriate

1 The accused is a 17 year old male. Before his arrest, he was a Secondary 4 student in a school in Tampines. He pleaded guilty to the following ten charges:

- (1) four charges of aggravated outrage of modesty under s 354A (2)(b) Penal Code;
- (2) two charges of aggravated rape under s 376 (2) Penal Code;
- (3) three charges of unnatural sex (fellatio) under s 377 Penal Code;
- (4) one charge of robbery under s 392 Penal Code.

In addition, he admitted having committed the following nineteen offences and consented to having them taken into consideration for the purpose of sentencing:

- (1) nine charges of aggravated outrage of modesty under s 354A (2)(b) Penal Code;
- (2) one charge of unnatural sex (fellatio) under s 377 Penal Code;
- (3) four charges of robbery under s 392 Penal Code;
- (4) three charges of theft under s 380 Penal Code;
- (5) two charges under the Films Act.

The Facts

2. In February and March 2003, the accused followed young girls between the ages of eight and twelve into lifts as they were heading home alone in public housing estates in the eastern region of Singapore. When they emerged from the lifts, he would attack them from behind, cover their mouths with his hand and pull them to the staircase landings. When one of them screamed in one case, he threatened to beat her up. There, he would molest them by inserting a finger into their vaginas and continuously pushing the finger in and pulling it out. This formed the substance of the aggravated outrage of modesty charges. For the two rape offences, he inserted his penis into the two young victims' private parts but ejaculated in his underwear only after he had withdrawn. In respect of the fellatio charges, he pushed the three victims' heads towards his exposed penis and forced them to suck it. In one instance, he ejaculated into the girl's mouth. Immediately, she spat out his semen onto the floor at the staircase landing. The accused then took his water bottle, poured water on the

seminal fluid and attempted to wash it away by brushing his shoe against it. A total of four young girls were involved in these sexual offences.

3. The robbery charge pertained to a handphone taken forcibly from another young girl's pocket when he accosted her from behind and covered her mouth. Due to her struggle, they fell onto the floor and she screamed. When the accused heard the sound of a door of one of the flats opening, he got up and ran away.

4. Pursuant to police reports filed by the families of the victims, a Special Task Force comprising officers from the Serious Sexual Crimes Branch ('SSCB') of the Criminal Investigations Department and the Bedok Division was set up. On 29 March 2003, an officer from a Neighbourhood Police Centre in the Bedok Division saw a photo-fit picture of the suspect composed by the SSCB and recognised it to be the accused.

5. On 30 March 2003, the police officers arrived at the block in which the accused was living and saw him at the void deck. When they moved in to arrest him, he put up a violent struggle and had to be subdued. He was then brought to the Bedok Neighbourhood Police Centre.

The Prosecution's submission of sentence

6. The Prosecution noted that the accused had no previous conviction and had pleaded guilty but submitted that he should be given a deterrent sentence for the following reasons:

- (1) a total of eleven young female victims were involved (including those in the charges taken into consideration);
- (2) the offences were not committed on the spur of the moment;
- (3) there was violence or threat of violence;
- (4) the psychological impact on the victims as shown in their Victim Impact Statements. For instance, two of the girls stated they were fearful of male strangers and did not dare to go out alone anymore;
- (5) public interest demanded that such socially abhorrent acts be severely punished and that law abiding people be adequately protected.

7. Various sentencing precedents were cited for my guidance.

The mitigation plea

8. The accused is only 17 years and 6 months old. He has two elder sisters. His parents separated when he was one year old, leaving his mother to fend for three young children. His mother had to work long hours in order to support the family and therefore could not give him the necessary emotional support.

9. He had several setbacks in life. The first was just two hours after his birth when his father unwittingly washed him under a tap causing him to turn blue and become motionless. Although he was revived sometime later, it was uncertain how that incident might have affected him. The second was when he was two or three years old and was being taken care of by a relative. He was injured in the chest and on the forehead as a result of neglect. The third incident happened when he was five years old and was knocked down by a pick-up while playing. He was hospitalised for about a week for

observation.

10. The emotional scars began to show in 2001 and 2002 when the accused stole money from his mother over a period of time. When his mother could take it no longer, she reported him to the police. As a result, his room was searched by the police and some video compact discs were uncovered. These incidents formed the substance of one of the theft charges and the two charges under the Films Act. The accused felt betrayed by his mother and never really forgave her.

11. The accused could offer no explanation why he committed all the despicable acts. He had a girlfriend with whom he was having a sexual relationship at the material time. This was his first appearance in a court of law. He admitted the offences from the outset and co-operated fully with the police.

12. Counsel made an impassioned plea that the accused be sent for reformatory training under s 13 Criminal Procedure Code by virtue of his age, his remorse and willingness to change for the better.

The decision of the court

13. Before sentencing the accused, I made the following remarks:

"1. This youthful accused has pleaded guilty to a total of ten charges - four charges of aggravated outrage of modesty, two charges of aggravated rape, three charges of unnatural sex and one charge of robbery. In addition, he has admitted nine other charges of aggravated outrage of modesty, one other charge of unnatural sex, four other charges of robbery, three charges of theft and two charges under the Films Act. 16 of the 29 offences were committed before he turned 17 on 20 Mar 2003 while the rest were committed within 10 days after his 17th birthday.

2. All the sexual offences were committed between 13 Feb and 29 Mar 2003 in housing estates in the eastern region of Singapore. On 29 Mar 2003, the day before his arrest, he struck three times in the Tampines housing estate. Eleven girls were involved in the sexual offences and they were aged between eight and twelve years. Some of these eleven young pre-puberty girls were robbed of their property, two were robbed of their virginity, but all were denied their dignity by the despicable acts of this daring marauder.

3. It seems to me that before the accused could complete his 'O' levels, he has already become a graduate in sexual crimes. He committed the offences with shocking audacity with practically all the attacks happening during daytime and near the homes of the victims. Reformatory training is inappropriate in the light of the number and the nature of the offences in this case. Despite his plea of guilt and his previous clean record, for which some credit should be given, his age and his unhappy childhood, he is a clear and present danger to vulnerable young girls and should be separated from them by a tall and thick, impenetrable wall.

4. It was only through the good and swift work of the police that this young terror of the east has been reeled in and his contemptible campaign of crime against children curtailed and that parents of young girls living in the Bedok and Tampines housing estates could rest easy again.

5. We hope that these girls of tender age will suffer no long term damage from the ravages of the February and March incidents. Equally, we hope this teenage accused will re-discover himself as he lives the next chapter of his life in prison. It is unfortunate that he has placed

himself in such a position.

6. It is with a heavy heart that I now sentence you, D, as follows:

(1)	for each of the four charges under s 354A (2)(b) Penal Code	4 years imprisonment and 6 strokes of the cane
(2)	for each of the two charges under s 376 (2) Penal Code	10 years imprisonment and 12 strokes of the cane
(3)	for each of the three charges under s 377 Penal Code	8 years imprisonment
(4)	for the charge under s 392 Penal Code	2 years imprisonment and 6 strokes of the cane.

I direct that the imprisonment terms for the two charges under s 376 (2) Penal Code run consecutively with effect from the date of arrest on 30 Mar 2003. The rest of the imprisonment terms are to run concurrently with the said two imprisonment sentences. The accused is therefore to serve a term of 20 years in prison. He is to receive a maximum of 24 strokes of the cane for all the offences."

Accused sentenced as stated.

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