

Public Prosecutor v Seethong Phichet
[2002] SGHC 204

Case Number : CC 38/2002
Decision Date : 02 September 2002
Tribunal/Court : High Court
Coram : Kan Ting Chiu J
Counsel Name(s) : DPPs Liew Thiam Leng and Eddy Tham for the prosecution; Tan Teow Yeow (Tan Teow Yeow & Co) and Chow Weng Weng (Patrick Chow & Associates) for the accused
Parties : Public Prosecutor — Seethong Phichet

Judgment

GROUND OF DECISION

1. The accused person was charged that he

on or about the 2nd day of June 2001, between 10.00 p.m. and 12.00 midnight, at a vacant plot of land off Pioneer Road North, Singapore, together with one Thongthot Yordsa-Art, one Dornchinnamat Yingyos, one Uthorn Koedsomboon and 2 other unknown males, were members of an unlawful assembly whose common object was to cause grievous hurt to one Saenphan Thawan (male/23 years), and while (he was) a member of the said assembly, one or more members thereof, in the prosecution of the common object of that assembly, did commit murder by causing the death of the said Saenphan Thawan, an offence which (he) knew to be likely to be committed in the prosecution of the common object of the assembly, and (he has) thereby by virtue of section 149 of the Penal Code, Chapter 224, committed an offence punishable under section 302 of the Penal Code

2. A substantial portion of the facts presented by the prosecution was not disputed by the accused.

3. On the day of the offence the accused and a group of Thai nationals met at a forested area off Jalan Bahar where they had beer and liquor and talked. Thongthot Yordsa-Art (who is also known as "Thot"), told them that the deceased threatened his girlfriend, and he wanted to teach the deceased a lesson. They talked of assaulting the deceased. One member of the group remembered that the accused had said "Let's just kill him" and the accused admitted that he proposed that they hit him hard, and break his arm or leg

4. After talking and drinking the accused and five persons from the group left Jalan Bahar and went to Kim Tian Road where they expected to find the deceased. They took lethal weapons with them including knives and swords. The accused carried an iron chain with an iron block, and he changed that for a sword when they arrived at their destination.

5. When they found and confronted the deceased, a fight ensued. The deceased fled after he was struck with a sword. They chased him and caught up with him and assaulted him further when he fell. The accused struck the deceased's back with his sword. The deceased died from injuries inflicted by members of the group.

6. The accused's defence was that he was obliged to Thot for having helped him before, and had participated in the assault out of fear that Thot would harm him if he did not join him and the others that day. Another line of defence was that he was under the influence of alcohol and did not know that murder was likely to be committed.

7. Neither defences are made out. There was no evidence of fear of immediate harm necessary to support a defence of duress under section 94 of the Penal Code.

8. The defence of intoxication failed because he must have known from the group's discussions and the weapons that were brought, it was the group's common intention to cause grievous hurt to the deceased.

9. Counsel in the submissions confirmed that the accused did not deny that he was a member of an unlawful assembly which common object was to cause hurt to the deceased, and that a member of the unlawful assembly murdered the deceased.¹

10. The defence was that he was too drunk to know that murder was likely to be committed.² This was inconsistent with his own evidence that he was with the others when they talked about assaulting the deceased and when the deceased was confronted, assaulted and pursued, and by his own admission that he struck him with his sword after he had fallen. Nothing in his own account of the events suggested that he did not know that murder was likely to be committed that day. To the contrary, I found that he must have known that it was likely that the deceased would be killed.

11. In the circumstances, I convicted the accused and imposed the mandatory death penalty on him.

12. The accused has stated that he did not wish to appeal against the decision and has not filed an appeal.

Sgt:

Kan Ting Chiu

Judge

¹ Defence Submissions, para 9

² Defence Submissions, para 9