

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 5

Criminal Case No. 59 of 2016

Public Prosecutor

v

Chia Kee Chen

JUDGMENT

[Criminal Law] — [Offences] — [Murder]

[Criminal Procedure and Sentencing] — [Voir Dire]

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Choo Han Teck J

25–28 October, 1–3 November 2016; 17 January 2017

17 January 2017

Choo Han Teck J:

1 Chua Choon Seng, aged 65, woke up at 2am on 29 December 2013 and found that his 37-year-old son, Dexmon Chua Yizhi, had not returned home. At 1pm, he went to the car park at Block 429A Choa Chu Kang Avenue 4 to look for Dexmon's car. When he reached deck A3 of the car park, he found the Dexmon's car, bearing the registration number SFX 2365L. There was no one in it and the door was not locked. Dexmon's spectacles and a packet of 'Boon Tong Kee' chicken rice as well as a lighter were found near the car. He rang Dexmon's mobile phone but was unable to get a connection. He informed his daughter, Anne, who then rang the police and reported Dexmon missing. Police officers Corporal Shaslin Bte Mohamed Shariff and Corporal Ng Jun Wei were first to arrive at the car park where they found bloodstains on the ground and on the car windows.

2 Earlier on that same day at 9am, a grey van appeared at a fish farm in Lim Chu Kang Lane 9. Loo Yuen Meng (“Loo”), the owner of the fish farm, recognised the driver of the van as Chia Kee Chen, whom he knew as “Chia”. Chia was with a man whom he introduced as his Indonesian worker. The Indonesian started washing the van using the farm’s water hose. Loo did not mind that, but after an hour, he asked Chia why they were taking so long to wash the van. Chia said that he wanted to make sure the van was properly cleaned before he returned it to the owner. Loo observed that Chia was speaking with a slur because of a swollen mouth.

3 Two days before 29 December 2013, Chua Chiew Hoon, known as Doreen, aged 47, persuaded her friend Vincent Ong Soon Yee to lend her the use of his van, registered as GX 4154D, for two days from 29 December 2013. Vincent recalled that Doreen went with a Chinese man, later identified as Chia, to collect the van. Chia drove the van and Doreen followed in another car. Chia’s wife, Serene Goh Yen Hoon (aged 38), is Doreen’s husband’s sister. Doreen and Chia are good friends. She says she treats him like a brother.

4 At 11am on 29 December 2013, Doreen rang Vincent to say that they would be returning the van, but it had been damaged and she offered to have it repaired at her cost. Vincent told her that would not be necessary. The van was returned to Vincent at 2pm. It was driven by Chia with Doreen in another car behind, just as they did the day before when they collected the van.

5 Vincent was annoyed not because the van’s carpet and wooden base were missing, but the side panels inside the van were gone and those were difficult to replace. As he drove off with his son in the van after taking it over

from Chia, his attention was drawn to a hand-saw in the rear of the van. It was not his.

6 In the afternoon of 29 December 2013, Chia took his wife and two daughters, aged 22 and 18 respectively, to Johor for a holiday. When they returned on 31 December 2013, Chia was arrested at the immigration checkpoint. The police had already identified Chia from the DNA in the blood stains found in the van and on a lighter near the van. The next day, on 1 January 2014, the police were led to the Singapore Armed Forces Live Firing Area along Lim Chu Kang Road (“the Live Firing Area”), where they discovered the partially decomposed body of Dexmon. Chia was charged for the murder of Dexmon under s 300(c) (or in the alternative, s 300(d)) of the Penal Code (Cap 24, 2008 Rev Ed), and tried in this court.

7 A pathologist, A/Prof Gilbert Lau, arrived at the Live Firing Area to examine the body on site. A/Prof Lau later performed the autopsy on Dexmon. His autopsy report, dated 10 January 2014, and his testimony in court was that Dexmon died from injuries to his head. Those injuries could have been inflicted with blows from a blunt force. He testified that almost every bone below the eye to the lower jaw was broken. A/Prof Lau gave important evidence that the fractures were inflicted from the application of great force with multiple blows. Chia admitted in a statement to the police recorded on 11 January 2014 that he was handed a hammer by a person he said was “Ah Ee” when they were assaulting Dexmon inside the van. He then used the hammer to hit Dexmon in the face as well as on the thigh. A/Prof Lau did not find any significant injury on Dexmon’s thighs but noted that there were fractures to the right ribs.

8 In the course of their investigation, the police arrested a 67-year-old man named Chua Leong Aik. Chua was at the time of this trial serving a five-year sentence for his part in Dexmon's death. He had pleaded guilty to charges of causing grievous hurt and abduction. He testified as a prosecution witness and told the court that he worked as a supervisor in a town council in Choa Chu Kang and had access to a storeroom which he used as his accommodation. He had known Chia for 20 years.

9 The police also looked for an Indonesian man named Febri, aged 33, but that man had already returned to Indonesia. He was not a compellable witness, but INSP Cyndi Koh Yu Shan together with SSI(2) Mazlan Bin Shariff interviewed one Febri Irwansyah Djatmiko ("Febri") in Indonesia with the assistance of the Indonesian police. A statement was recorded in the Indonesian language by Brigadier Jhon Frenky Damanik. Febri is the man referred to as "Ah Ee" in Chia's various statements. In his statement, Febri implicated Chia as the man who engaged his (Febri's) help, as well as another person whom Febri referred to in his statement as 'Water'.

10 Mr Peter Fernando, counsel for Chia, objected to the admissibility of Febri's statement. He submitted that the prosecution has not proven that Febri was fit to give a statement to the police. He further submitted that there was insufficient effort to have Febri testify in this court. Finally, he submitted that this court should reject Febri's statement because it is "highly prejudicial, untested and unverifiable". I admitted Febri's statement into evidence. Febri is an accomplice and would have been subject to prosecution. It is no wonder that he refused to testify in Singapore. The recording officer Damanik checked with Febri who affirmed that he was well and fit to have his statement recorded. INSP Koh, who was present, testified that Febri looked well. The

statement was recorded in one session and did not seem unreasonably long. The recording started at 11am (West Indonesian Time) but no time was given as to its end. I did not admitted the statement as primary evidence against Chia, but as a further piece of corroborative evidence. Febri does not know the proper names of the various people involved, but his narrative fitted that of Chia's (who he described as 'ACIA') evidence as well as the evidence of Chua (whom he referred to as 'WATER'). His evidence relating to 'the fat wife' seems to fit the role played by Doreen. His reference to 'the thin wife' fit the role of Chia's wife, Serene. Febri also identified the persons he described when their photographs were shown to him. His statement's probative value, in this way justifies its admission.

11 Febri stated that on 28 December 2013, Chia went to meet him and Chua at a storeroom at an electrical substation which Chua used as his abode. Chia brought along two knives, a contraption described as an 'electrode', a torchlight, and a packet of gloves. There was no evidence that the knives were used, but Febri said that he used the electrode on Dexmon which caused him (Dexmon) to lose consciousness and after that Chia hit Dexmon repeatedly on the face.

12 Other than Febri's evidence, the story thus far is not contested by Chia. It was sufficient to call upon Chia's defence. Chia testified that although married to Serene and has two daughters by her, he also has a wife and three children, aged between 10 and 13, in Indonesia, but that had not affected his marriage when he revealed the existence of this family to Serene in 2011.

13 Towards the end of 2012, Chia found text messages on Serene's mobile phone that made him suspect that she was having an affair with

another man. He said that she eventually admitted to having an affair with her colleague whom she got to know when they took the company's transport to work. That man was Dexmon. He claimed that Serene told him that Dexmon had recorded their sex acts on video and kept it in a thumb drive. Chia testified that he told Serene that he would get the thumb drive from Dexmon.

14 Chia then tried to modify his story so as to show that he had no part to play in the assault on Dexmon in the van. This made him an unreliable witness because he created strange names for characters that were untraceable. He claimed that there were two other persons with him in the van, namely 'Ali' and 'Febri'. He said that he had engaged Ali to help him retrieve the thumb drive from Dexmon in January 2013. He claimed that Ali and Febri dragged Dexmon off the van and he did not know what had happened to Dexmon. Febri did not mention the use of a hammer, but in his statement to the police on 11 January 2014, Chia, who began that statement by saying "I wish to tell the truth now about Dexmon", claimed that Febri had taken a hammer that was found in the van, and began hitting Dexmon's head. This was the same statement in which Chia admitted that when Febri handed the hammer over to him, he too hit Dexmon on the head with it.

15 Chia testified that about 3am on 29 December 2013, he telephoned Serene's brother, Goh Beng Guat, and asked him about the price of birds. He said that Febri told him that birds were cheaper in Indonesia and he wanted to bring them here to sell. Goh testified that that Chia indeed called him about 3am but it was to seek his help to move a body. Goh told him that he (Goh) was not going to do anything illegal and went back to bed.

16 Under cross-examination from Deputy Public Prosecutor Eugene Lee, Chia denied that he had led the police to a canal where Febri had thrown the hammer that was used to hit Dexmon. That was a strange denial because he had drawn a picture of the hammer in his statement of 10 January 2014. There was also incontrovertible evidence of the police searching the canal by Kranji (its proper name is Kranji Loop River) for the hammer although they did not find it in the end.

17 Chia made two statements under s 23 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) after the duly administered caution was read to him. In both statements, one dated 1 January 2014 and the other 11 November 2014, Chia denied being at the car park where Dexmon was abducted and denied any involvement in Dexmon's abduction and murder. This is clearly contradicted by the evidence given by the other witnesses and is contrary to the present position taken by the Accused in his closing submissions where he admits that he, together with Chua and Febri, abducted the Deceased from the multi-storey car park.

18 Chia has proved himself to be an unreliable witness even when he declared in his penultimate statement that he wished to finally tell the truth. We are not able to know truth from him because he has either contradicted himself many times over, or is contradicted by the evidence of other witnesses, or has given incredible accounts, such as calling Goh at 3am to ask what the market price for birds were. There is incontrovertible evidence that he had just spent the earlier part of the morning in the van with Chua, Febri, and Dexmon. Any thought of buying birds at that time is surely a flight of fancy. Neither Febri nor Chua gave fully consistent statements, but they had not contradicted themselves the way Chia did. Only Chia had claimed that one 'Ali' and

another Indian man were involved. There is absolutely no other evidence that persuade me that there may be a possibility that Ali and the Indian man might have been involved. Chia started a story which he had difficulty fabricating into a coherent whole.

19 When one connects all the common evidence, the case against Chia is clear. There is no doubt in my mind that Chia alone had the motive and intention to kill or cause grievous hurt to Dexmon. He finalised his plans by 27 December 2013, and on the evening of 28 December 2013, he gathered Chua and Febri to assist him. Chua was the driver of the van that his friend Doreen had obtained for him. Chia, Chua, and Febri waited for Dexmon in the car park until the latter arrived. They accosted him and bundled him into the van where Dexmon was assaulted by Febri or Chia or both of them. The assault was so severe that Dexmon sustained injuries sufficient in the ordinary course of nature to cause death, and Dexmon indeed died from those injuries. There is no need to prove whether a hammer was used or whether the hammer, if used, had been found. There were only two perpetrators inside the van with Dexmon, namely Chua and Febri. There was some evidence that a hammer was used. There was also some evidence that Dexmon's head was smashed against the van. Whichever way, the injuries that led to Dexmon's death were intentional. The injuries and evidence showed repeated blows. That took away any possibility of an accidental wound although accidental death was not part of Chia's defence. I am convinced beyond reasonable doubt that both Chia and Febri intended to assault Dexmon as they did. That was their common intention. It did not matter who dealt the crucial blow although it seemed to me that Chia was the one. He was the man with the motive and the hatred for Dexmon. The other two were his assistants. Dexmon's limbs were tied using a form of knot that Dr Robert Charles Chisnall, the prosecution expert, said had

to be constantly held at one end to maintain fastness. So either Febri held down Dexmon or Chia did and the other then hit Dexmon. Their common intention was to inflict the physical harm that was in fact inflicted. There is no evidence that either had not intended that, nor was there evidence that either of them had a change of mind during the assault. That being the case, both Febri and Chia would have been guilty of causing those injuries that, as A/Prof Gilbert Lau testified, were sufficient in the ordinary cause of nature to result in death.

20 When the common evidence and the incontrovertible forensic evidence are examined, there can be only one conclusion. Chia is guilty as charged on the first charge for the murder of Dexmon. I therefore find him guilty and convict him as charged.

- Sgd -
Choo Han Teck
Judge

Eugene Lee Yee Leng, Yvonne Poon Yirong and Dora Tay Joo Ling
(Attorney-General's Chambers) for prosecution
Peter Keith Fernando (Leo Fernando) and Jeeva Arul Joethy (K Ravi
Law Corporation) for accused.