

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2016] SGHC 160

Criminal Case No 38 of 2016

Public Prosecutor

V

Muhammad Fadly Bin Abdull Wahab

GROUND OF DECISION

[Criminal Law] – [Offences] – [Rape]

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Public Prosecutor
v
Muhammad Fadly Bin Abdull Wahab

[2016] SGHC 160

High Court — Criminal Case No 38 of 2016
Choo Han Teck J
29 July 2016

22 August 2016

Choo Han Teck J:

1 The accused Muhammad Fadly Bin Abdull Wahab (“Fadly”) was one of five youths aged between 20 (as Fadly is now) and 22 who were charged with the rape of a 21 year old female (“the victim”) who was, at the time of the offence, 18 years old, as was Fadly.

2 One of the other co-accused, Muhammad Hazly Bin Mohamad Halimi (“Hazly”) together with Fadly, pleaded guilty to the charge. The other three co-accused claimed trial and were not before me. Hazly and Fadly’s cases were heard on the same day. I sentenced Hazly to 11 years of imprisonment with six strokes of the cane, and I sentenced Fadly to 13 years of imprisonment with eight strokes of the cane. Fadly has filed an appeal against my decision.

3 The statement of facts was admitted by Fadly without qualification. The essential facts were that Fadly first met the victim at “Zouk” in October 2013 through a mutual friend. They continued to meet one another at “Zouk” on several occasions and eventually exchanged mobile phone numbers. Fadly invited the victim to a friend’s birthday party on 25 January 2014 at the Duxton Hotel. From the text messages exchanged between Fadly and Hazly that day, it was established that Fadly planned to get the victim drunk that night. The party of his friends met at Room 310 of the Duxton Hotel. There, Fadly introduced the victim to the others, and then gave her alcoholic drinks. The victim became very drunk and began vomiting after drinking her fourth cup of vodka. At 1.15am the party moved to Zouk, leaving Fadly and Hazly behind to look after the victim who had passed out by then.

4 Fadly then helped the victim to clean up. He took a photograph of the victim’s exposed breasts and sent it to one of his friends, Danial. Sometime in the early hours, between 1.15am and 3.44am, Fadly and Hazly raped the victim. The victim was in an extremely intoxicated state at the time. Later in the night, Fadly deleted his name and contact details from the contact list of the victim’s mobile phone. He also deleted text messages between them. On the same day, Fadly blocked the victim on his social media accounts on Twitter and Instagram.

5 The only mitigating factors in his favour were his age – he was 18 at the time of the offences, that he had pleaded guilty and that this was his first offence. He had no previous convictions. The prosecution submitted that the appropriate sentence should be 14 years imprisonment with nine strokes of the cane. The learned DPP submitted that there was an exploitation of a particularly vulnerable victim and Fadly abused his position of trust. She also

submitted that there was little mitigating weight in the circumstances pleaded by Fadly.

6 Counsel for Fadly in his written mitigation suggested that a jail sentence of less than 14 years would be appropriate. But after sentence passed on Hazly, he considered that a sentence of 12 years and three strokes of the cane would be the more appropriate punishment in the light of the mitigating circumstances.

7 No matter what sentencing theory is applied in this case, there is no definitive way to prove that a sentence of 12 years imprisonment and three strokes of the cane was more correct and appropriate than 14 years imprisonment and nine strokes of the cane. Given the range suggested by prosecution and the defence as well as the circumstances of the case, I sentenced the accused to 13 years of imprisonment and eight strokes of the cane on the ground that I consider Fadly's conduct was insufficiently mitigated by his youth, his plea of guilt and the fact that this was his first offence.

- Sgd -
Choo Han Teck
Judge

Charlene Tay Chia, Sharmila Sripathy-Shanaz and Tan Soo Tet
(Attorney-General's Chambers) for prosecution;
Ismail Hamid (Ismail Hamid & Co) for the accused.