

Public Prosecutor v Kanesan S/O Ratnam
[2002] SGHC 42

Case Number : CC 8/2002
Decision Date : 28 February 2002
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Amarjit Singh, Jason Tan and Chng Hwee Chin [Attorney-General's Chambers] for the prosecution; Shashi Nathan [Harry Elias Partnership] (assigned) and Ratanesh Kaur Bal [Straits Law Practice LLC] (assigned) for the accused
Parties : Public Prosecutor — Kanesan S/O Ratnam

Judgment

GROUND OF DECISION

1. The accused is a 36 year old inmate of the Queenstown Remand Prison. He was one of three cell-mates in cell B 141 on 10 August 2001. The other two were Shanker Suppiahmaniam and Panneerselvan Lallayah. At 8.25am Panneerselvan was taken out to see his family, leaving Shanker alone in the cell with the accused. Upon his return to the cell about 9.00am Panneerselvan found Shanker lying on his mat in a prone position. When he realised that Shanker was motionless and cold to the touch he sounded the alarm. Various efforts were made to resuscitate Shanker without success. Dr. Norkhalim Dalil the prison medical officer made the first attempt. Shanker was brought to him at 9.08am. At that time he already recorded no respiration from Shanker although there was a very weak pulse of 30 beats per minute. He recorded in his report that he introduced "a total of three ampoules of adrenaline ... with no return of pulse". Lelawaty Bte Abdullah the paramedic from the Alexandra Fire Station arrived at the prison at 9.19am and took over the resuscitation from Dr. Dalil. She recorded no pulse or respiration from Shanker. Shanker was brought to the Alexandra Hospital where he was attended by Dr. Soh Poh Choong and Dr. Pauline Neow at the Emergency Department. Dr. Soh's evidence was that Shanker did not respond to resuscitative efforts and was pronounced dead at 10.19am. The pathologist Dr. Gilbert Lau testified that Shanker died from asphyxia due to compressive neck injury. In the course of the autopsy he found that the cricoid cartilage was fractured and that was consistent with a compressive injury to the neck applied with considerable force such as an "arm-lock" round the neck.

2. The accused was subsequently charged with the murder of Shanker. The evidence against him came mainly from his confessions to the prison wardens and subsequently the police investigators. The confessions were not challenged in court where he made no attempt to defend himself, and elected to remain silent after his defence was called. The circumstantial evidence was also highly incriminating. It was clear beyond any reasonable doubt that Shanker collapsed during the brief period when he was alone with the accused in cell B 141. The evidence also proves beyond any reasonable doubt that his death was due to a compressive force injury to his neck.

3. In his statements recorded on 12 August 2001 the accused stated that on the morning in question Shanker spilled tea from his cup so the accused asked him to clean up the mess. Not only did Shanker refuse he gave a rude retort to the effect that "you talk so much why don't you do it". The accused seethed with rage and when he saw that Shanker was facing the other way. He (the accused) grabbed him and "did an arm lock on his neck" and held on like that for about five minutes. When Shanker was thus motionless on the ground the accused strangled him again with a piece of towel. Then he proceeded to clean up the spilt tea. As he was performing that chore he was seized once more with rage towards Shanker; so he strangled him a third time. Finally, the accused pressed

Shanker's face against his (Shanker's) blanket for five minutes. Soon thereafter Panneerselvan returned to the cell and raised the alarm. In his other statements the accused stated that since he had been unsuccessful in committing suicide on a number of occasions, he therefore planned to kill Shanker so that he would be sent to the gallows for the crime.

4. Although the accused refused to challenge the prosecution evidence, I had, nevertheless, to satisfy myself that the prosecution case had been satisfactorily proved. The physical act constituting the offence raised no difficulty whatsoever. I had to consider, however, whether the physical act of the accused was the cause of death. I say this because the act occurred at or shortly before 9.00am in the Queenstown Remand Prison, but Shanker was pronounced dead at 10.19am at the Alexandra Hospital. Perusing the evidence of the prosecution witnesses, I accept that Shanker had died shortly after he was brought to the prison dispensary (at 9.08am) and that his death was the direct result of the strangulation by the accused on him. The second aspect that required some attention concerned the mental state of the accused. The medical evidence that the accused was not of unsound mind was not challenged and there being no evidence other than that of Dr. Sathyadevan that must be the only conclusion I can draw. The defence of diminished responsibility requires the defence to prove on a balance of probabilities that the accused suffered from an abnormality of mind such as to affect his responsibility. Nothing was adduced towards this defence. Taking all that into account, I am satisfied that the prosecution had proved its case that the accused killed Shanker sufficient in the circumstances to amount to murder. His strict and specific instructions to his counsel not to challenge the prosecution evidence closed every avenue of defence - especially in respect of any challenge to the psychiatric evidence of Dr. Sathyadevan as to his sanity. On those same instructions, no evidence upon which any of the exceptions to murder was suggested, much less adduced.

5. The accused was this day found guilty as charged and sentenced to suffer death.

Sgd:

Choo Han Teck
Judicial Commissioner

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