

Public Prosecutor v Gelau Anak Jimbat
[2006] SGHC 212

Case Number : CC 28/2006
Decision Date : 23 November 2006
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Winston Cheng Howe Ming and Stella Tan (Deputy Public Prosecutors) for the prosecution; Amolat Singh (Amolat & Partners) for the accused
Parties : Public Prosecutor — Gelau Anak Jimbat

Criminal Procedure and Sentencing – Mitigation – Accused pleading guilty to offence of culpable homicide not amounting to murder – Accused pursuing the deceased and stabbing his back even after deceased ran away – Significance of accused's claim that knife was first wielded by deceased – Appropriate sentence to be imposed

23 November 2006

Choo Han Teck J

1 The accused killed one of his flatmates, Azlizan Bin Mali ("Azlizan") on 11 January 2006 at their flat in Teban Gardens Road. He pleaded guilty to a charge of culpable homicide not amounting to murder under s 304(a) of the Penal Code (Cap 224, 1985 Rev Ed). He is 22 years old and comes from Malaysia. Azlizan was 19 years old and was also a Malaysian. The two of them were employed as cleaners in the same company providing cleaning services. They lived in a flat on the 11th floor of a block of flats at Teban Gardens Road rented from one Chia Wing Meng ("Chia") who occupied the master bedroom himself. There were seven Malaysians altogether living in that flat, and all of them were also colleagues in the company. One of them was a 41 year old man called Marakus Lai Yu ("Marakus").

2 Marakus and the deceased occupied the living room. The accused and one Ridzwan Bin Mohammed ("Ridzwan") occupied one of the smaller bedrooms. On 9 January 2006, the accused was seen by Ridzwan to have taken something from a folding-chair that Marakus had used as his bed. Shortly after that, Marakus was unable to find his mobile telephone and as he searched for it, had asked Ridzwan if he (Ridzwan) had seen it. Ridzwan told him (Marakus) to ask the accused.

3 Marakus did so but the accused said that he had not taken the mobile phone. That evening, when all the occupants had returned to the flat, Marakus once again asked the accused whether he had taken his mobile phone. The accused was angry at the implied accusation of theft and his angry exchange with Marakus only ended after Chia told them to quiet down.

4 On the morning of 11 January 2006, most of the tenants had gone to work except Azlizan, the accused and one Palani. Palani woke up at about 6am and shortly after that he was praying in his room when he heard shouts in Malay for help. He recognised the voice to be that of Azlizan. Palani came out of his room but could not see Azlizan. Chia had also come out of his room by this time. They then went to the main door to see if Azlizan was outside, and found him lying in front of the lift with blood all around him. The accused was not seen, but was later arrested when he went to meet his girlfriend.

5 The statement of facts to which the accused admitted stated that at about 6am on 11 January 2006 Azlizan demanded that the accused return Marakus' mobile phone. The accused denied taking it and a quarrel ensued, in the course of which a knife was used. It was not known who used the knife first. The relevant passage in the statement of facts reads as follows -

During the altercation, a knife was used. The accused managed to use the knife and stabbed the deceased. The deceased retreated into the living room. The accused got up and ran towards the main door. As he was about to open the door, he realised that the deceased was standing behind him. At that moment, the accused turned around and stabbed the deceased again. After that, the deceased ran out of the flat. However, the accused continued to pursue the deceased. In the course of his pursuit, he stabbed the deceased a few times. When they were at the 11th floor lift lobby, the accused stabbed the deceased again in the back. Thereafter, the accused threw the knife over the parapet wall and ran down the staircase and fled the scene.

6 However, counsel for the accused, Mr Amolat Singh, said in mitigation that it was Azlizan who first used the knife to attack the accused and the accused managed to wrest the knife from Azlizan and then stabbed him in the chest.

7 The forensic evidence showed that Azlizan was stabbed once in the chest and several times in the back. The wound to the chest was a deep one – 15cm deep and penetrated the heart. It was this wound that resulted in an injury described by Dr Gilbert Lau, the pathologist, as "in all likelihood, have been fatal in and of itself".

8 In mitigation, counsel submitted that the accused was genuinely in fear of his own safety when Azlizan attacked him with the knife. The accused was also a first time offender with no antecedents.

9 In my view, the mitigating factors should be considered against the fact that the accused had chased Azlizan from the flat to the lift and had stabbed him many times even as he was running away. All the main wounds were inflicted in the chest region, most of them from the back. I am of the view that the offence, in spite of the mitigation ably made on his behalf, merited a severe sentence. Even if it resulted from a sudden fight and even if Azlizan had been the initial aggressor, the tables had been completely turned when the accused took over the knife. Thereafter, there was no justification in using it the way he did. By that time, the accused could not be the one who was "fearing" for his own safety. It appeared that it was Azlizan who was afraid and running for safety when he was stabbed in the back. Furthermore, instead of rendering assistance, he ran away. In these circumstances, I am of the view that a sentence of ten years imprisonment and six strokes of the cane would be an appropriate sentence and I sentenced him thus.

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