Public Prosecutor *v* Kamrul Hasan Abdul Quddus
[2014] SGHC 4

Case Number : Criminal Case No 7 of 2009

Decision Date : 08 January 2014

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Hay Hung Chun and Ruth Wong Shuyi (Attorney-General's Chambers) for the Public Prosecutor; Suppiah s/o Pakrisamy and Elengovan s/o V Krishnan (P Suppiah & Co) for the accused.

Parties : Public Prosecutor — Kamrul Hasan Abdul Quddus

Criminal Law – Offences – Murder – Sentencing

08 January 2014

Choo Han Teck J:

1 The accused was charged with murder. The charge did not specify which of the four sub-sections of section 300 of the Penal Code (Cap 224, 2008 Rev Ed) was being invoked. On 8 January 2010, Kan Ting Chiu J convicted him on the charge and imposed on him the sentence of death, which was at that time mandatory upon a conviction for murder under any of the four sub-sections of s 300. The Court of Appeal affirmed the conviction, which meant that the sentence of death stood. Kan J and the Court of Appeal both issued written decisions: *Public Prosecutor v Kamrul Hasan Abdul Quddus* [2010] SGHC 7 and *Kamrul Hasan Abdul Quddus v Public Prosecutor* [2011] SGCA 52 respectively. On 1 January 2013, legislative amendments came into effect which made the death sentence non-mandatory for murder under sub-sections (*b*), (*c*) and (*d*) of s 300 of the Penal Code. Pursuant to s 4(5) of the Penal Code (Amendment) Act (No 32 of 2012), the accused filed a motion for re-sentencing, and the Court of Appeal clarified on 12 August 2013 that the conviction of the accused was under s 300(*c*) and accordingly remitted the case to the High Court for him to be re-sentenced. The case came before me, and on 12 November 2013 I sentenced the accused to life imprisonment and 10 strokes of the cane. The accused has filed an appeal against sentence.

2 Kan J found, and the Court of Appeal agreed, that in the early morning of 16 December 2007 the accused caused the death of the deceased by strangling her. By way of background, the accused and the deceased, an Indonesian domestic worker, were in an intimate relationship that commenced in January 2007. It was a relationship fraught with tumult; in October 2007 the deceased discovered that the accused was already married, and shortly after the deceased began a relationship with another man. But it appears that they resumed their relationship in late November 2007 and even made plans to wed. On 15 December 2007, the day before her death, the deceased informed a few people that she and the accused would be going to the airport the following morning to pick up the mother and a sibling of the accused. However, her body was found at a construction site at 9.50am on 16 December 2007. This was the construction site at which the accused was working. Kan J considered (at [59]) that the accused "could have killed the deceased to avoid having to confess that he had lied about his mother coming to Singapore, or he may have done it after the deceased found out about the lie, and became angry with him".

3 An autopsy was carried out on the deceased. There was "extensive and severe bruising" in the

soft tissues of the neck that would be "consistent with the application of compressive force to the neck", and "multiple abrasions and bruises on the undersurface of the chin and of the lower jaw, as well as abrasions on the face and neck, that would be consistent with injuries inflicted with fingernails and finger pads". In addition to these injuries consistent with strangling and the associated struggle, there were injuries consistent with blows to the region of the left eye and to the lips. There was evidence of a head injury consistent with the application of blunt force trauma. There were abrasions and bruises on the upper limbs that were consistent with defensive injuries. The inner aspects of both labia minora were extensively abraded, which was consistent with penetrative sexual activity prior to death.

4 At the re-sentencing hearing before me, the prosecution indicated that they did not object to a sentence of life imprisonment, but they urged me to impose between 16 and 18 strokes of the cane. They argued that the present case was comparable to that of *Public Prosecutor v Gopinathan Nair Remadevi Bijukumar* [2012] SGHC 59. There, I convicted the accused of murder for stabbing a Filipino woman to death. When the matter was remitted to me for re-sentencing, I sentenced the accused to life imprisonment and 18 strokes of the cane. Had the present case been close enough to that of *Gopinathan*, I would have imposed the exact same sentence. But in my view there was an important difference, in that in *Gopinathan* there was very strong evidence of planning and an intention to rob the deceased — I found that the knife which was used to stab the deceased was brought by the accused to their meeting — which would warrant a more severe sentence. There is a further consideration. In the present case, Kan J was the trial judge. Unlike him, I have not had the advantage of hearing all the evidence that was presented at trial. In the circumstances, however numerous the injuries in the autopsy report may seem to be, I would err on the side of leniency. I agreed with the prosecution that the oral remarks of Lee Seiu Kin J in *Public Prosecutor v Amanchukwu Chukwuma* (Criminal Case No 41 of 2011) do not give rise to the general proposition that caning is not appropriate for all crimes of passion. In that case, the accused pleaded guilty to a charge of culpable homicide not amounting to murder. In sentencing him to 12 years' imprisonment, Lee J said in closing, "As this is a crime of passion, caning is not appropriate". Earlier, Lee J said that he accepted that the offence "was not premeditated, there was some degree of provocation and [the accused] had shown remorse by pleading guilty at the first opportunity". In my opinion, looking at the remarks of Lee J as a whole, he meant no more than that caning was not appropriate given the circumstances which he accepted characterised the case before him. The reference to "crime of passion" was not the articulation of some distinct legal category but was simply a summary of the essential circumstances of the case.

5 In my judgment, caning was appropriate in the present case because there was a substantial degree of violence in the ultimately fatal assault perpetrated by the accused on the deceased, as shown by the injuries detailed in the autopsy report. However, for the reasons I have given above, I took the view that the number of strokes should be less than the 18 imposed in *Gopinathan*. I thought that 10 strokes of the cane would be right and I so ordered.