

Public Prosecutor v Kwok Teng Soon
[2001] SGHC 283

Case Number : CC 46/2001
Decision Date : 28 September 2001
Tribunal/Court : High Court
Coram : Tay Yong Kwang JC
Counsel Name(s) : Hee Mee Lin and Aaron Lee Teck Chye (Attorney General's Chambers) for the public prosecutor; R Tiwary (R Tiwary & Co) for the accused.
Parties : Public Prosecutor — Kwok Teng Soon

Criminal Procedure and Sentencing – Sentencing – Culpable homicide not amounting to murder – Accused suffering from delusional disorder at time of offence – Diminished responsibility – 'Neo Man Lee principles' – Conditions justifying sentence of life imprisonment – s 304(a) Penal Code (Cap 224)

: The accused, a male, 51 years of age, pleaded guilty to a charge under s 304(a) of the Penal Code (Cap 224) for having committed culpable homicide not amounting to murder by causing the death of his 32-year-old wife in his flat in Yishun.

The accused had been working as a technical officer in the Ministry of Environment. His deceased wife was from China. They got acquainted through a marriage agency. The deceased's work permit was cancelled in October 2000 but the accused extended her stay here and placed a security deposit of \$5,000 for that purpose after she told him that she wished to marry him.

On 2 November 2000, they married each other. The deceased then returned to China for about three months to arrange for her daughter from a previous marriage to come to Singapore for studies. She returned here in March 2001.

On 18 March 2001, the deceased asked for \$4,000 from the accused. He withdrew \$2,000 from an automated teller machine, gave the money to the deceased and informed her that he would withdraw another \$2,000 the following day. He did so on 19 March 2001 but did not question the deceased about the purpose of the money as he was afraid she would get angry.

On 20 March 2001, he withdrew another \$5,000 by way of cashier's order for the security deposit for the deceased's daughter's stay in Singapore. After that, the accused began to think about all the money he had withdrawn and recalled an incident in which he had been cheated of money by another girl from China who was very secretive. He noticed that the deceased was also secretive and had not expressed any joy at their reunion upon her return from China. He began to get angry as he was afraid that the deceased would also cheat him. He decided to withdraw all the money remaining in his bank account (about \$29,000) and closed it. He then went to book an air ticket for himself, intending to go to China for a tour on his own.

When he arrived home that day, he handed the \$5,000 cashier's order to the deceased but she told him she would go to the Singapore Immigration and Registration Department with him. She asked for another \$1,000. That was given to her by way of a cheque.

On 21 March 2001, at around 8pm, the accused returned home and sat down to watch television in the living room. The deceased was in the bedroom. He began to think again about all the money he had expended on his wife and became increasingly angry as he contemplated the possibility that she was with him only for his money.

At about 10pm that night, he went into the bedroom and asked the deceased why she needed the \$4,000. The deceased did not reply and became angry. An argument followed. The deceased then told him to leave the bedroom.

Back in the living room, a lot of things went through his mind. He felt his body was getting weaker and wondered whether his wife had been administering poison to him.

A few hours later, at about 1am on 22 March 2001, the accused went to the kitchen, got hold of a chopper and returned to the bedroom. He woke his wife up, pointed the chopper at her and asked why she had been so quiet, threatening to use the chopper on her if she did not explain the need for the \$4,000. His wife lay in bed, staring at him in anger. The accused then slashed her face once. She got up immediately to defend herself but the accused continued to slash her with the chopper, ignoring her cries as to why he was doing that to her.

She ran out of the bedroom with the accused hot on her heels swinging the chopper at her. She tried to open the main door of the flat but found it locked. The accused caught hold of her and as she turned around, slashed her face and her neck. Her arms, which she used to try to fend off the blows, were similarly bloodied. Eventually, she slumped to the floor, facing upwards. As she lay on the floor helplessly, the accused continued to slash her neck, stopping only in exhaustion.

He then realised that he had killed his wife who was lying on the floor in a pool of blood, almost decapitated. He walked around the flat in a confused state. Later, he called the police informing them that he had killed a woman.

When the police officers arrived at the eleventh floor lift lobby in the block of flats, they saw the accused with blood on his face and his clothes. He led the police officers to his flat where they saw the gory scene. Upon being questioned, the accused admitted that he had killed his wife. He was then placed under arrest.

In statements made to the police during investigations, the accused admitted to having killed his wife. The autopsy report certified the cause of death as `Multiple Incised wounds to Head and Neck`. The medical examination of the accused showed that he had not consumed alcohol that fateful day.

In his report dated 11 June 2001, Dr Eu Pui Wai, a consultant psychiatrist at the Woodbridge Hospital, opined that the accused was fit to plead and to stand trial, that he was suffering from delusional disorder and, at the time of the offence, was suffering from an abnormality of mind arising from a delusional disorder which had substantially impaired his mental responsibility for his act and that it amounted to diminished responsibility. Dr Eu also noted that the accused had been admitted to Woodbridge Hospital from 29 June 2000 to 4 July 2000. This was because the accused believed he had AIDS even though his HIV test done four months earlier proved to be negative and he had tried to injure himself by banging his head against the wall at the Communicable Disease Centre. He was then diagnosed to be suffering from delusional disorder and was prescribed medication. The accused defaulted on his follow-up treatment after his discharge from the hospital. On admission to Changi Prison Hospital, he knocked his forehead against the door of the cell on 26 March 2001 and had to be prevented from hurting himself. Dr Eu concluded his report by saying, `He would require long-term treatment for his mental illness`.

In a letter dated 20 September 2001 to the Attorney General's Chambers, Dr Eu clarified that:

2. Depending on the nature of the delusion in the event of a relapse of his

mental illness he could be violent towards others.

3. There is a possibility of re-offending in the event of a relapse of his mental illness.

4. With treatment, the Delusional Disorder could remit but control of symptoms is dependent on total compliance with treatment and this would be difficult to enforce in the community.

The accused had a clean record before this incident.

The prosecution`s submissions on sentence

The prosecution urged me to impose life imprisonment on the accused in view of the savagery of the attack on the deceased and his mental condition as described above. The prosecution described the accused as `a walking time bomb` who was a danger to himself and to the people around him.

The defence`s submissions on sentence

Defence counsel emphasised that this was the accused`s first brush with the law in every sense of the word in his 51 years. He had never previously exhibited any character of a violent nature.

His actions in calling the police and readily admitting to the offence at the scene and during the investigations bore testimony to the degree of his remorse.

The accused had known the deceased for about 30 weeks when they decided to get married. He loved her but began to realise later that it was probably a marriage of convenience and not love where his deceased wife was concerned. They had sexual relations only twice and even then, she had made it clear that she had no wish to become pregnant. Her behaviour and her actions played on his troubled mind and that caused him to suffer the delusional disorder.

Dr R Nagulendran, an experienced psychiatrist presently in private practice and a Visiting Consultant at the National University of Singapore Health Service, examined the accused at Queenstown Remand Prison recently on 7, 12 and 14 September 2001 and concluded as follows in his report dated 15 September 2001:

(1) At the time of the alleged offence Kwok Teng Soon suffered from Delusional Disorder in that he believed that his wife was unfaithful to him and had caused harm to him.

(2) This condition does not amount to unsoundness of mind.

(3) This condition, however, is an Abnormality of Mind of such severity as to have substantially impaired his mental responsibility for his acts.

(4) This Abnormality of Mind satisfies the criteria for Diminished Responsibility.

(5) *He is fit to plead.*

(6) *Prior to the alleged offence he had not exhibited any violent behaviour to others. The incident of his banging of his head at the Centre for Communicable Diseases was a suicidal gesture when he believed that he was suffering from AIDS that he considered as incurable.*

(7) *The prognosis for his illness is favourable in that he responded to treatment quickly.*

(8) *Being the first episode of violent behaviour the duration of treatment and follow-up is two years.*

(9) *It is unlikely he would repeat the offence again as he has regained insight and does not hold to any delusions or exhibit any other abnormal mental symptoms.*

(10) *It is unlikely that he would be a threat to others or to himself.*

It was submitted that `the Accused`s delusional state was brought and caused directly by his perception that he was being "cheated" on by his wife` and, in that sense, was `person specific`. He was now 51 years old and if sentenced to ten years` imprisonment, was hardly likely to be in a similar situation again with someone else upon his release. His mental condition had started only recently and could therefore be cured quickly. He had responded well to the medication prescribed and was now taking only one tablet a day instead of the three different types of medication previously. His brother was prepared to ensure that he continue with his medication in future.

The decision of the court

In **Neo Man Lee v PP** [\[1991\] SLR 146 \[1991\] 2 MLJ 369](#), the then Court of Criminal Appeal, in dealing with an accused person suffering from chronic schizophrenia and convicted and sentenced under s 304(a) of the Penal Code to life imprisonment, said ([1991] SLR 146 at 148; [1991] 2 MLJ 369 at 370):

*The deputy public prosecutor referred us to a report on sentencing from the Criminal Division of the Court of Appeal in England in the case of **R v Rowland Jack Foster Hodgson** [1968] 52 Cr App R 113 which carried the following statement by MacKenna J, with which we are in broad agreement:*

`When the following conditions are satisfied, a sentence of life imprisonment is in our opinion justified: (1) where the offence or offences are in themselves grave enough to require a very long sentence; (2) where it appears from the nature of the offences or from the defendant`s history that he is a person of unstable character likely to commit such offences in the future; and (3) where if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.`

The Court of Criminal Appeal dismissed the appeal after stating that the conditions for life

imprisonment were clearly satisfied in that case.

This authority was considered and applied by me in **PP v Ong Wee Teck** [2001] 3 SLR 479, where a sentence of life imprisonment was also imposed on an accused who was suffering from schizophrenia and who had killed his elder brother by inflicting multiple incised wounds with a chopper.

Recently, in **PP v Dolah bin Omar** [2001] 4 SLR 302, Choo Han Teck JC also imposed life imprisonment under s 304(a) of the Penal Code on a 55-year-old man who had bludgeoned his 79-year-old uncle to death with a stool and then cut off the genitals of the deceased. It was an utterly gruesome killing and although the prosecution there called for the imposition of life imprisonment because of the repulsive nature of the offence, Choo JC made it clear it was not on that basis that he handed down the sentence. The accused in that case also had a history of chronic schizophrenia since the 1960s. He was markedly disabled socially and intellectually and was not able to be employed gainfully. The offence in question was the only known incident of violence in his record of antecedents.

At [para]10 of his grounds of decision given on 4 September 2001, Choo JC said:

Mr Nazim pleaded for the accused be confined in a mental institution as opposed to being sentenced under s 304(a) of the Penal Code. But as I have stated above, on the facts, this accused does not qualify to be acquitted on the ground of unsoundness of mind and the only orders that I could make are those under s 304(a). Given the nature of his illness the closest order to a long term detention with medical rehabilitation would be, in my view, a sentence of life imprisonment; but if I do not provide any sound basis why a person whose mental capacity (for the commission of the offence charged) was diminished by a chronic and serious mental illness should be punished to the maximum limit provided under s 304(a) it is because there is none save the utilitarian one that I have adopted for this case.

The fact that the accused persons in the above three cases were suffering from schizophrenia or chronic schizophrenia, a major mental illness, does not make those cases distinguishable from the present one where the accused is suffering from delusional disorder. I note defence counsel's emphasis that 'there are mental illnesses and mental illnesses' and that none of the reports has described delusional disorder as a major mental illness. I also note Choo JC's statement (at [para]9 of his grounds of decision) that 'mental disorders are of different types and each has a wide range in terms of the degree of affliction'. However, Dr Nagulendran has said that the accused's condition was 'an abnormality of mind of such severity as to have substantially impaired his mental responsibility for his acts'.

In my opinion, the inquiry should not be on how a particular illness is classified but should focus on the central theme in **Neo Man Lee**'s three conditions - ie whether the accused is a person of unstable character likely to commit such offences in future. The purpose of the three conditions is not to determine how evil a particular accused person can be. Rather, it is to extrapolate from his condition and his actions, the likelihood of a relapse and what the probable consequences might be.

I think the facts here fell squarely within the principles in **Neo Man Lee** (supra). The accused has not been cured. He would require long-term treatment which could lead to a remission but that would be premised on his 'total compliance with treatment'. Much as I commended his brother's willingness to do his part, I was not at all confident that a grown-up man like the accused, accustomed to living by himself, would always be amenable to reason and to supervision by a brother. Despite his relatively

short history of mental disorder, we have seen how devastating the effects could be when something triggered him off. In the circumstances, life imprisonment would be the only appropriate sentence and I sentenced him accordingly, with the sentence deemed to have commenced on 22 March 2001, the date he was arrested and kept in custody.

Outcome:

Accused sentenced to life imprisonment.

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