**Programme: Public Services Portfolio**

**Module: Criminal law**

**Module code: BMLW4005/BMPL4009**

**Issue**

The present issue has been the determination of the criminal liability in the case of the murder of Mohammed by Poly who has been a patient of Schizophrenia. Mohammed and Polly have been dating for ten years who had been diagnosed with Schizophrenia. Polly had developed paranoia while attending a gathering at their neighbourhood tavern and saw Mohammed flirting with Roxanne behind the bar. Seeing that, Polly approaches Roxanne and calls her a "bitch" while pointing her middle finger in Roxanne's direction. Someone asked Polly to leave the bar. Outside, Polly saw Roxanne's moped and cut the brake wires with a piece of shattered glass she finds in the parking lot. Mohammed eventually followed her as she made her way home. The incident Polly started in the neighbourhood tavern has him miffed and ashamed. Inside the residence, Polly accused Mohammed of having feelings for Roxanne. Polly pressed Mohammed about Roxanne, implying that he consider her more appealing than Polly. Despite Mohammed's assurances that this is not the case, Polly grows angrier and pressed him. At some point, Mohammed loses his cool and yelled, ***"Yes, I've been having an affair with Roxanne for the past nine months, I love Roxanne, and we're getting married!"*** After crying uncontrollably for a moment, Polly turned away and saw a glass ashtray. She picked it up and hit Mohammed in the head with it. The head injury caused Mohammed to pass away instantly. Now the issue will be to determine the validity of criminal offences against Poly and will describe the same with reference to different case laws and legislations.

**Laws**

In the case of Poly, the presence of different acts such as the Criminal Damage Act (1971) and others like the Mental Health Act (1983) has been there. Firstly, when Poly cut the brake wire of the moped of Roxanne with shattered glass, the Criminal Damage Act (1971) became applicable. As per Section 1 of the Act, when a person damages and destroys the property of any other person without any ***“lawful excuses”*** and has the intention to destroy the property, the same can be treated as a criminal offence. In this case, to determine the applicability of the law, the use of the case study of R v Cunningham [1957] 2 QB 396 can be seen where the Law Commission in paragraph 33 stated that criminal offences should require ***"traditional mens rea, in the sense of intention or recklessness in relation to prescribed consequences and, where appropriate, knowledge or recklessness in relation to prescribed circumstances."*** Besides, the presence of ***a "Mental Element”*** (guilty mind where the offender needs to have a culpable state of mind) has also been necessary to be enacted in the case (Alldridge, 1985). The consideration of the present issues is necessary to be done in case of the determination of criminal liability of Poly.

On the other hand, in the case of the murder of Mohammed with a glass ashtray, the applicability of the Mental Health Act (1983) can be analyzed. As per Sections 2 and 3 of the act, the process has been scheduled for the determination of the treatment needs of the person with a mental illness like Schizophrenia. Besides U/S 2 and 3 (S/S 2,3, and 4) hospitalization for the assessment of the mental illness by the doctor is necessary where the same might not have been present in the case of Poly (NHS, 2022). Further, U/S 5(2) and 5(4) of the same Act, the nursing staff can take necessary decisions regarding detention in the hospital. On the other hand, the case of murder can also be treated as manslaughter during the trial if “the abnormality of the mind” is proven. In those cases, the person may not be charged with the case of murder; rather the Crown Court may find him guilty of manslaughter under the Homicide Act 1957.

**Application**

The first thing to take into account is Polly's mental illness, schizophrenia. The mental health disorder schizophrenia can have an impact on a person's thinking, feelings, and behaviour. Mental health issues are acknowledged in the UK as illnesses that can impair a person's capacity for decision-making and self-control. The UK's legislative foundation for treating mental health issues is laid out in the Mental Health Act of 1983. The conditions for detaining a person with a mental disorder for treatment are outlined in Section 1 of the Act, and the admission procedure to a hospital for evaluation and treatment is outlined in Section 2. It's unclear in the scenario whether Polly was being institutionalized under the Mental Health Act or receiving therapy for her schizophrenia. But based on how she acted in the bar, it appears that she was exhibiting impulsivity and paranoia symptoms, which are typical of schizophrenia sufferers. She may be charged with criminal damage under the Criminal Damage Act of 1971 since she intentionally cut Roxanne's moped's brake lines with a piece of broken glass. Criminal damage is defined in Section 1 of the Act as the willful or negligent destruction or damage of another person's property.

In this case, the verdict in the R v Stephenson [1979] QB 695 case can be worth discussing. In this case, the defendant had tried to go to sleep where he lit a fire in the hollow from feeling cold. The same had resulted in the dame of property amounting to £3500. As a result, he was charged under the 1971 Act under sections 1(1) and (3). However, his act was not treated as recklessness as the person had a history of Schizophrenia and the expert evidence at trial suggested that he did not have the same ability as a sound person to foresee the effect of the act he has done. On the other hand, as per the observation of Jones and Ginter (2015), the insanity defence refers to the time when it is necessary to determine whether ***"the defendant had the mental capacity to distinguish between right and wrong at the time of the alleged offence and could control his or her conduct accordingly.”*** In this case, Poly was not at all able to distinguish between right and wrong and his behaviour cannot be acted as recklessness therefore, he should not be charged with a criminal offence under Criminal Damage Act (1971).

On the other hand, Mohammed was killed as a result of Polly's attack on him with an ashtray made of glass. Under the Homicide Act of 1957, this violent offence might be charged as murder or manslaughter. Case instances, such as the Lipman (1970) and Harris (2013) trials, has established the legal concepts of murder and manslaughter. Another case of Harris (2013) can be considered here while determining the applicability of the criminal liability of Poly for murdering his partner Mohammed for betraying her. In the Harris (2013) case, the accused had a history of mental illness and killed a man by stabbing him. The defendant's claim of diminished responsibility—a partial defence to murder that downgrades the accusation to manslaughter—was rejected by the court, which found that the defendant had the required intent for murder. Evidence of an abnormality in the defendant's mental functioning that materially hampered their capacity to comprehend the nature of their actions, develop an objective judgment or exercise self-control is necessary to establish the reduced culpability defence. According to the scenario, Polly may be claiming that her schizophrenia makes her less responsible. But the fact that she grabbed a glass ashtray and struck Mohammed with it suggests that she acted deliberately and may face charges of murder. The ***R v. Sangha*** case from 1998 offers instructions on how to use the diminished responsibility defence. The defendant in this case killed his wife during a delusional episode and had a history of mental illness. The defendant could use the diminished responsibility defence, the court ruled, but he would need to demonstrate that his mental illness seriously compromised his capacity for self-control. The situation also implied that Mohammed might have enraged Polly by confessing to having an affair with Roxanne. However, the provocation defence has stringent requirements and might not be appropriate in this situation. Advice on how to use the provocation defence is given in the 2013 case of ***R v. Hatter***. The defendant in this case murdered his wife after she made fun of his impotence. The court determined that the provocation defence through which it can be stated that the case should be treated as manslaughter.

**Conclusion**

At last, from the completion of the case of Poly and the determination of the criminal liability through the use of different acts and cases, it can be concluded that the act of cutting the brake wire of Roxanne’s moped was from the provocation of Mohammed when he flirted with Roxanne in the pub. He was unaware of the results of the same and her behaviour lacked mental element and cannot be described as recklessness. Further, the different case studies and the findings of Jones and Ginter (2015) suggest that the murderer was not in her proper state of mind and was not in full control. Therefore, it should be judged as manslaughter under Homicide Act 1957 where proper mental health proceedings are to be taken by the respective authority.

**References**

Alldridge, P., 1985. Law Reform Bodies and the Reform of the Criminal Law. The Journal of Criminal Law, 49(4), pp.383-394. doi: <https://doi.org/10.1177/002201838504900408>

NHS (2022) Mental Health Act 1983, NHS choices. NHS. Available at: https://www.nhs.uk/mental-health/social-care-and-your-rights/mental-health-and-the-law/mental-health-act/ (Accessed: April 22, 2023).

Owen D. Jones, Matthew Ginther, (2015). Criminal Responsibility, International Encyclopedia of the Social & Behavioral Sciences (Second Edition), UK.

R v Cunningham [1957] 2 QB 396

R v Hatter [2013] WLR(D) 130.

R v Lipman [1970] 1 QB 152

R v Sangha [1988] 2 All ER 385

R v Stephenson [1979] QB 695

[www.publications.parliament.uk](http://www.publications.parliament.uk) (2022). House of Lords - Regina v. G and another (appellants) (on appeal from ..., www.publications.parliament.uk. Available at: https://publications.parliament.uk/pa/ld200203/ldjudgmt/jd031016/g-2.htm (Accessed: April 22, 2023).