

Public Prosecutor v Sundarti Supriyanto (No 2)
[2004] SGHC 244

Case Number : CC 19/2003

Decision Date : 29 October 2004

Tribunal/Court : High Court

Coram : MPH Rubin J

Counsel Name(s) : Jaswant Singh, Eugene Lee and Aaron Lee (Deputy Public Prosecutors) for prosecution; Muhamed Muzammil bin Mohd (Muzammil Nizam and Partners) and Johan Ismail (Johan Ismail and Co) for accused

Parties : Public Prosecutor — Sundarti Supriyanto

Criminal Procedure and Sentencing – Charge – Outstanding offences – Five stood down charges taken into consideration in sentencing – Accused admitted to charges and consented to take them into consideration in sentencing – Entry on record made pursuant to Criminal Procedure Code (Cap 68, 1985 Rev Ed) s 178(2).

Criminal Procedure and Sentencing – Sentencing – Forms of punishment – Principles – Accused convicted on charge of culpable homicide not amounting to murder – Prescribed custodial sentence is either life imprisonment or imprisonment for a term which may extend to ten years – Whether accused to be sentenced to life imprisonment or prison term of ten years – Nature of offence taken into consideration in sentencing accused – Section 304(a) Penal Code (Cap 224, 1985 Rev Ed).

29 October 2004

MPH Rubin J:

1 On 24 September 2004, I convicted Sundarti Supriyanto, the accused in this case, on a reduced charge of culpable homicide not amounting to murder, punishable under s 304(a) of the Penal Code (Cap 224, 1985 Rev Ed) ("PC") ([2004] SGHC 212). After hearing submissions from the Prosecution and the Defence, I sentenced the accused to life imprisonment. I now give my reasons.

2 After the court had found the accused guilty and convicted her, the Prosecution applied for five charges (one amended since), which were stood down at the beginning of the trial, to be taken into consideration in sentencing the accused, if she consented as much. The charges averred that the accused committed the offences of:

- (a) culpable homicide not amounting to murder by causing Crystal's death, punishable under s 304(a) PC;
- (b) mischief by fire with the intent to cause the destruction of a building which is used as a place for the custody of property by pouring petrol and setting the said premises on fire, punishable under s 436 PC;
- (c) theft of several items in the possession of the deceased, punishable under s 380 PC;
- (d) theft of several items in the possession of one Steven Yeo Hwee Lee, punishable under s 380 PC; and
- (e) attempted theft of money in the possession of the Development Bank of Singapore Limited by attempting to make unauthorised withdrawals from a Post Office Saving Bank Automated Teller Machine ("ATM") with a stolen ATM card belonging to one Tay Mui Cheng,

punishable under s 379 PC.

I informed the accused that her agreement to take the charges into consideration would have a bearing on her sentence. The charges were then read to the accused in the Indonesian language. She admitted to them and consented to take them into consideration in sentencing. The Prosecution informed me that the accused did not have any antecedents. I then proceeded to hear the accused's mitigation plea.

Mitigation

3 Counsel for the accused submitted that the accused continued to work in Singapore as a domestic maid because, after the demise of her father, she had to take on the responsibility of being the breadwinner of her family. It was submitted that she carried out her work to the best of her abilities, but her best was not good enough for the deceased. This was attributed to the vast differences in culture and lifestyle in her village as compared to Singapore, thereby resulting in her having difficulties in carrying out instructions promptly and efficiently. Counsel for the accused also informed the court that the accused had a message written in Bahasa Indonesia to convey to the family of the deceased, requesting that it be read out in court. I allowed the request, and the message was read in English by her counsel as follows:

I wish to express my deepest apology to the family of [the deceased's husband] for the events which took place in that fateful night, which had brought tragedy and grief to him and his family ...

4 Counsel implored the court for a lighter sentence, urging the court to exercise compassion. In this regard, counsel submitted that the accused was not a cold-blooded killer, and due regard should be given to the fact that the accused had saved the baby from the fire. Following this, I called on the Prosecution to submit on the sentence.

The Prosecution's submission on sentence

5 The Prosecution submitted that the prescribed punishment under s 304(a) PC is imprisonment for life, or imprisonment for a term which may extend to ten years, and the offender shall also be liable to be fined or caned. In respect of case precedents, the Prosecution submitted that there is no fixed benchmark sentence for cases of culpable homicide not amounting to murder under s 304(a) PC. In this respect, the Prosecution relied on the case of *PP v Tan Kei Loon Allan* [1999] 2 SLR 288, where it was observed at [33]:

We were of the view that it is not desirable, unlike simple rape, to set a benchmark for culpable homicide. The range of circumstances in which such offences are committed is extremely varied ...

6 The Prosecution further submitted that in *PP v Kwan Cin Cheng* [1998] 2 SLR 345, the appellant had succeeded in his defence of grave and sudden provocation and was convicted on a charge under s 304(a) PC. At trial, he was sentenced to ten years' imprisonment, but on appeal, the sentence was enhanced to life imprisonment. The Prosecution also relied on a slew of cases where the courts have meted out sentences of life imprisonment in cases of culpable homicide under s 304(a) PC, including *PP v Ng Kwok Soon* [2002] 3 SLR 199, *PP v Muhamad Hasik bin Sahar* [2002] 3 SLR 149 and *PP v Saminathan s/o Subramaniam* [2002] SGHC 259. The Prosecution then urged the court to consider the nature of the accused's attack on the deceased, and submitted that

the sentence of life imprisonment was warranted in this case.

The decision on sentence

7 I took into consideration the accused's mitigation plea and the address by the Prosecution in arriving at my decision on the sentence to be imposed on the accused. Before I handed down the sentence, I informed the accused that she had narrowly managed to escape the executioner's noose by a very slender margin – the margin that separates the offence of murder from culpable homicide not amounting to murder. It was indeed a close call and the result might well have been much worse for the accused in some other jurisdictions.

8 Under s 304(a) PC, the prescribed sentence for the offence for which the accused was convicted is either life imprisonment or a prison term which may extend to ten years. There is no middle band. In my view, the nature of the offence for which the accused was convicted – let alone the charges taken into consideration – called for a higher tariff, and certainly a sentence of ten years would be manifestly inadequate. In this respect, I took into account the nature of the injuries inflicted on the deceased by the accused and the manner in which she had tried to mask the offence with a view to escaping the process of law and justice. I considered all that was said on behalf of the accused, including one significant aspect that she had somehow ensured the safety of the deceased's infant son from the raging fire, which was of course started by the accused.

9 However, having regard to the fact that there is no middle range of sentence between ten years and life imprisonment, I sentenced the accused to a term of life imprisonment. The sentence was backdated to the date of the accused's arrest, *ie* 10 June 2002. I also informed the accused that she may, at the appropriate time, apply to the President through her counsel for any commutation of the sentence. Pursuant to s 178(2) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed), an entry was made on the record that the accused shall not, unless the conviction which had been recorded against her on 24 September 2004 is set aside, be liable to be charged or tried in respect of the offences so taken into consideration.

10 It was further ordered that all non-documentary exhibits be released to the police for disposal after completion of the judicial process.

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