

Public Prosecutor v Mohamad Noor bin Abdullah
[2001] SGHC 127

Case Number : CC 25/2001
Decision Date : 05 June 2001
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Chan Wang Ho and Edwin San [Attorney-General's Chambers] for the prosecution; Ahmad Nizam [Muzammil Nizam & Partners] (assigned) and Ramli Salehkon [Ramli & Co] (assigned) for the accused
Parties : Public Prosecutor — Mohamad Noor bin Abdullah

JUDGMENT:

Grounds of Decision

1. The accused is 26 years old and nicknamed "Eagle". He lived in a rented flat at Woodlands. It is what is described as a "Jumbo" flat. The main door to the flat opens to a small porch and corridor which has two entrances, each leading to a separate flat. The conjoined flats have egress into each other by means of a sliding door in the living room and another in the dining room. The one in the living room in this case was blocked off by heavy furniture. The landlord lives in one flat together with her taxi-driver husband and family. The accused occupied the other with his girl-friend. She was not charged, and no evidence connects her with any offence.

2. At 9.15pm on 27 November 2000, officers from the Central Narcotics Bureau ("CNB") raided the Woodlands flat by gaining entry through the sliding door in the dining room. The accused dashed into the toilet attached to one of the two bedrooms. There he tried to dispose of two bags of heroin by pouring the contents into a drain. He then resisted efforts by the CNB officers in gaining entry into the toilet. Eventually, his resistance was overcome and he was arrested. One of the officers scooped the heroin from the drain, first with a spoon, and later with his hands. The contents recovered were sent for analysis by the Department of Scientific Services and proved to be 58.83 nett gms of diamorphine. The accused was accordingly charged with possession for the purposes of trafficking the said diamorphine.

3. It was not disputed that the flat was rented by the accused using the name of his friend Roslan on 2 October 2000 at a monthly rent of \$850 as described in the tenancy agreement of that date. A deposit of two months rent was paid by the accused.

4. In addition to the heroin in the drain, the CNB officers also recovered a pager, some mobile telephones, a used aluminium foil stained with heroin, a small sachet of heroin, an improvised pipe, six slabs of Erimin 5 tablets, three L4A tablets, a small weighing scale, a sealer, a bag containing two types of plastic bags, a roll of aluminium foil, a straw containing heroin, a rolled up dollar note, some cash, a packet of plastic sachets, keys to the flat, and a drug supervisee card (described as "urine reporting card") belonging to the accused.

5. The accused was noticed to be suffering from drug withdrawal symptoms and was sent to the Changi Prison Hospital for examination. He was seen by Dr. Choo Hsiao Ho who concluded that then accused was indeed having drug withdrawal symptoms and by the symptoms exhibited, he was of the view that the accused was a moderate heroin abuser. The analysis of the urine specimen taken from the accused after his arrest showed traces of mixed drug intake. The drugs included opiates.

6. The prosecution adduced in evidence the cautioned statement of the accused recorded on 1 December 2000. In this statement the accused stated: "I plead for leniency. That is all." However, after he was asked if he had any alterations or additions, he further stated: "I have an aged mother and no one is taking care of her. So please have mercy on me and consider my case. That is all."

7. In addition to the above the prosecution tendered in evidence the investigation statements recorded from the accused on 4, 5

and 11 December 2000. In these statements the accused recounted how he came about the heroin and how he was to dispose of it under the direction of one "Ah Chong". They were detailed confessions of heroin trafficking activities by the accused.

8. I was satisfied that a case had been made out against the accused and thus called upon his defence. No submission was made in this regard by Mr. Nizam, counsel for the accused. The accused elected to give evidence. His defence was that the heroin seized was meant only for his own consumption. He based his case on two main features. First, that he had a history of heroin consumption, and secondly, that he had made enough money to buy the drugs to support his addiction. The undisputed evidence was that the accused had been sent to drug rehabilitation centres in 1993, 1993, 1994 and 1997. He was on regular supervision until 30 June 2000, the date of his last report to under the supervision programme.

9. After the accused had given evidence the trial was adjourned for the defence to engage an expert on the degree of the accused's drug addiction. However, when the trial resumed on 4 June 2001 Mr. Nizam informed the court that no further evidence will be called and he thus closed the case for the defence.

10. In his closing submission, he urged me to accept that the accused was a severe heroin addict and that the heroin seized from him were intended for his own consumption and not for trafficking.

11. The accused was undoubtedly a heroin addict at the time of his arrest, and so what he had to persuade me was that the heroin in his possession was intended for his own consumption and not for trafficking. In this regard, it was incumbent upon him to explain the drug trafficking accessories found in his possession. He said that he bought the weighing scale from an old man out of pity for him. As to the plastic bag sealer, he said it had never been used. I do not find his explanation convincing and was not persuaded. I also do not think that the accused was such a severe addict that he required all the heroin for himself. There was little, if any, evidence for me to conclude that if the accused was trafficking in heroin it was only in respect of less than 15g out of the 58.83g found in his possession. On the contrary, the evidence of drug trafficking accessories points to a larger scale trafficking activity.

12. The defence of consumption is not an elaborate legal defence and therefore, I would expect the accused to say so in his cautioned statement. All he said instead, was a plea for leniency on account of his aged mother. I see no reason why the defence of consumption could not have been stated in a short simple line even if he was in a hurry to get the recording of the statement over with quickly because he was feeling cold at that time as he claimed.

13. Similarly, I do not accept the explanation of the accused in respect of the admissions made by him in his s 121 CPC statements. Given the length and detail of those statements, I am unable to believe that the accused did not intend to make them, or was in any way oblivious that he was incriminating himself.

14. There is insufficient evidence to persuade me that the accused was earning a large income from selling "VCDs" although I am prepared to accept that he may have been selling them as a side-line. The financial means of the accused was not a pivotal issue. Even if I had accepted that he had enough money to purchase heroin, it does not follow that the money did not come from drug trafficking proceeds or that he was not involved in drug trafficking.

15. In the absence of any reliable evidence I am satisfied that the prosecution case had not been rebutted and found the accused guilty as charged and sentenced him to suffer death.

Choo Han Teck

Judicial Commissioner

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