

Public Prosecutor v I and Another
[2003] SGHC 166

Case Number : CC 31/2003
Decision Date : 05 August 2003
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Eugene Lee and Tan Wee Soon (Attorney-General's Chambers) for the Public Prosecutor; First Accused in person; Second Accused in person
Parties : Public Prosecutor — I; K

1 The First Accused is 47 years old and unemployed. The Second Accused is 39 years old and was his mistress. The two accused pleaded guilty to a total of three charges each, in connection with a sexual assault on the 8-year old daughter of the second accused. The first accused was charged under s 376(2) of the Penal Code for aggravated rape, as well as a charge under s 377 of the Penal Code for an act of fellatio on the same girl. The second accused was charged with the abetment of these two offences. In addition, the second accused was charged with making a false police report implicating her father, an 82 years old visually handicapped person, in the sexual assault on the young girl – his granddaughter. The first accused was charged with abetting the second accused in the making of that false report.

2 The sexual offences took place on the same day (sometime in May 2002). The two accused brought the victim along with them to the third level of a multi-storey car park and there performed a sexual act in the presence of the victim. After that, the second accused, on the instigation of the first, encouraged the victim to perform fellatio, followed by sexual intercourse with the first accused. The statement of facts admitted by both accused recited that the young girl, although mentally inadequate, nonetheless, resisted but was soon put under pressure by both accused, and thus succumbed.

3 Neither accused persons has any previous convictions. The mitigation of first offence will always have to be considered with the seriousness of the offence and the circumstances under which it was committed. It is entirely possible that a first offender may have schemed and performed his criminal debut in a much more heinous fashion than a repeat offender. In the present case, I am of the view that although the offence was serious and deplorable, the absence of previous convictions need not be disregarded entirely, but the weight I had given to this was minimal so far as the first accused was concerned.

4 So far as the second accused was concerned, she is divorced with three daughters aged, 19, 8 and 6 respectively. She also has an 82-year old father who is visually handicapped. She worked as a cleaner to support them. Any punishment meted to her will undoubtedly have a ricochet effect on her family members. The leniency shown to her was therefore on their account and not hers. The first accused did not deserve similar leniency.

5 The learned DPP Mr Eugene Lee submitted that in respect of cases involving the making of false police reports the offenders have hitherto been sentenced to imprisonment terms between two to four weeks. The maximum penalty is six months imprisonment or with fine or with both. Much depends, of course, on the nature and circumstances of the false report. In this case, the false report concerned the offence of rape. It is an obviously serious allegation with severe consequences as the two accused must realise now. I am therefore of the view that the making a false report that puts an innocent person at risk of such consequences merits a more severe sentence than two to

four weeks imprisonment.

6 For the reasons above, I sentenced the first accused to 13 years imprisonment and 14 strokes of the cane in respect of the charge under s 376(2) of the Penal Code and five years imprisonment in respect of the fellatio charge under s 377. The sentences of imprisonment are to be served concurrently. In respect of the offence of abetting the second accused to make the false police report I sentenced the first accused to a term of three months imprisonment which is to be served consecutive to the terms of imprisonment under the first two charges.

7 The second accused was sentenced to eight years imprisonment in respect of her abetment of rape and three years in respect of her abetment of the act of fellatio on the first accused by her daughter. In both instances, she was less culpable than the principal offender. However, in respect of the offence of making a false police report she was the principal offender even though she said that she did it at the instigation of the first accused. For her part I sentenced her to four months imprisonment to be served consecutively to the other two terms of imprisonment.

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