

Lim Pang Howe Harry v Public Prosecutor
[2010] SGHC 76

Case Number : Magistrate's Appeal No 129 of 2009 (DAC No 22153 & 23310 of 2008)
Decision Date : 10 March 2010
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Ang Sin Teck (Surian & Partners) for the appellant. Edwin San (Deputy Public Prosecutor) for the respondent.
Parties : Lim Pang Howe Harry — Public Prosecutor

Criminal Law

10 March 2010

Choo Han Teck J:

1 The appellant was tried and convicted on two charges in the court below. The first charge was for an offence under s 506 of the Penal Code (Cap 224, 2008 Rev Ed), namely, the offence of criminal intimidation. The second charge was for an offence under s 323 of the Penal Code (Cap 224, 2008 Rev Ed), namely for causing hurt. He was sentenced to four months imprisonment on the first charge and fined \$1,000 on the second charge. He appealed against conviction and sentence in respect of both charges.

2 The appellant was a 41-year old taxi driver. He was married with a nine-year old daughter. However, in October 2007 he met a 31-year old woman from China ("the complainant"). Shortly after that meeting they became lovers.

3 On 14 May 2008 the appellant had quarrelled with the complainant because she refused to have sex with him that day. He threatened to tell an old boyfriend of the complainant that he was the complainant's lover. He knew that the complainant would not have liked her former boyfriend to be bothered. A tussle ensued when the appellant tried to use the complainant's cell phone to make the call. The complainant even bit the appellant's hand to make him release the cell phone. In the process, the appellant dropped the cell phone, damaging it.

4 The appellant then took a knife and threatened to disfigure the complainant's face. This was the subject matter of the first charge. The complainant was frightened and knelt down pleading with him not to disfigure her face. The appellant then pointed the knife at his abdomen and said "let me die". The complainant calmed him down whereupon he left the knife on a table, took some tranquilizer and fell asleep. However, the complainant woke him up about an hour later and reminded him to pick up his daughter from school. They left the flat together. Later they had dinner and after which they returned to the flat.

5 That night they had another quarrel and the appellant hit the complainant's face. This was the subject matter of the second charge. They then went to bed. Fearing that the complainant might run away, he tied one of her hands to his. However, the complainant managed to escape in the middle of the night and went to see her friends. She then reported the matter to the police two days later on the advice of her friends.

6 The appellant's appeal against conviction was a challenge on the finding of facts. Mr Ang, his counsel said that there were two versions. The appellant's version was a denial of the charge of threatening to disfigure the complainant's face. Counsel submitted that what the appellant said was "I dare not disfigure your face" and not "I will disfigure your face". The trial judge, however, accepted the complainant's version.

7 This ground of appeal had no merits as the evidence depended on the evaluation of the credibility of both complainant and appellant. The trial judge's finding of facts in this regard cannot be disturbed. However, given that the situation arose from a lovers' quarrel and the sting of that threat was a fleeting one since the complainant and the appellant had a quick, although brief, reconciliation after the incident, a sentence of four months' imprisonment was manifestly excessive in this case. I therefore reduced the sentence to one month's imprisonment.

8 The appeal against conviction and sentence in respect of the second charge had no merits as there was nothing in the record to indicate that the trial judge's findings of fact were wrong. In my view, a fine of \$1,000 for causing hurt in the circumstances was not excessive.

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