

Public Prosecutor v Somrak Senkham and Another  
[2004] SGHC 172

**Case Number** : CC 25/2004

**Decision Date** : 11 August 2004

**Tribunal/Court** : High Court

**Coram** : Choo Han Teck J

**Counsel Name(s)** : James Lee and Woo Ka Wai (Deputy Public Prosecutors) for prosecution; Fong Chee Yang (C Y Fong and Co) and John Tay Choon Leng (John Tay and Co) for first accused; Suresh Damodara (David Lim and Partners) and Michelle Frances Jeganathan (Tan Rajah and Cheah) for second accused

**Parties** : Public Prosecutor — Somrak Senkham; Chooket Prasong

*Criminal Law – Property – Robbery and gang-robbery – Robbery with hurt – Penal Code (Cap 224, 1985 Rev Ed) ss 394, 397.*

*Immigration – Criminal offences – Overstayer – Immigration Act (Cap 133, 1997 Rev Ed) s 15(3) (b).*

11 August 2004

**Choo Han Teck J:**

1 The two accused persons were members of a gang that had planned to rob a construction worker. The victim, a male Thai aged 44 years, was grievously hurt in the course of the robbery and died subsequently. The pathologist's report, however, indicated that two factors contributed to his death. First, the victim's death was primarily caused by a serious trauma to the victim's head that had been inflicted with a long pole used by one of the robbers. Secondly, the victim had been suffering from a chronic kidney disease as well as an ischaemic heart disease which also contributed to his death.

2 The second accused hatched the robbery plan with a person called Somsak because the two were in financial difficulties. They also knew that the victim possessed some gold jewellery. However, they wanted help and so they enlisted one Techan Dithakorn. Eventually, Techan enlisted the first accused and the plan was finalised on 5 October 2003 to rob the victim that evening.

3 Somsak lured the victim to a vacant plot of land between Tuas South Avenue 6 and Tuas South Avenue 8. This plot of land was known to Thai workers as the "Forest of Flower". The victim sold a concoction known as "yaba" and Somsak pretended that he wanted to purchase "yaba" from him. However, because the victim did not have adequate stocks, he had to fetch more. Consequently, as it appeared from the statement of facts, he was waylaid at Tuas South Street 5 instead. The robbery proper was carried out by the first and second accused and Techan Dithakorn. Somsak appeared to have remained at the "Forest of Flower" where he had stationed himself to look out for the victim and set him up for the others. Somsak pleaded guilty to a charge of abetment of robbery with hurt under s 394 read with s 109 of the Penal Code (Cap 224, 1985 Rev Ed) and was punished with a term of imprisonment of five years and also 12 strokes of the cane. Techan Dithakorn is still at large.

4 The first and second accused pleaded guilty before me to a charge of robbery with hurt under s 394 read with s 397 of the Penal Code. Section 397 reads as follows:

If at the time of committing or attempting to commit robbery, the offender is armed with or uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, such offender shall be punished with caning with not less than 12 strokes, in addition to any other punishment to which he may be liable under any other section of this Code.

The first accused also pleaded guilty to a charge under s 15(3)(b) of the Immigration Act (Cap 133, 1997 Rev Ed) for overstaying by 1812 days after the expiration of the special pass issued to him by the Ministry of Manpower on 29 December 1998.

5           The first accused was 31 years old and the second accused was 38 years old. Both were first-time offenders. The statement of facts recited that Techan was the one who had assaulted the victim with a wooden pole during the robbery. The pathologist was of the view that the serious injury to the victim's head and neck was likely to have been inflicted by a blunt weapon such as the pole. The police recovered the pole, which appeared to have broken in two during the assault.

6           The victim was robbed of \$200 cash, of which \$50 was given by the active robbers to Somsak for his part in the crime. A Nokia 3310 mobile telephone and a Starhub SIM card were also taken from the victim.

7           I accepted the plea in mitigation that the two accused before me had only intended and did carry out their plan to commit robbery, in the course of which the victim had been grievously hurt. I also accepted that the death of the victim was not planned.

8           In the circumstances, I sentenced both accused to five years' imprisonment and 24 strokes of the cane (including the 12 additional strokes each, as required under s 397 of the Penal Code). The first accused was also sentenced to three months' imprisonment and three strokes of the cane in respect of the Immigration Act offence.