

Public Prosecutor v Thong Ah Fat
[2010] SGHC 227

Case Number : Criminal Case No 17 of 2010
Decision Date : 10 August 2010
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Isaac Tan, Samuel Chua and Nicholas Ngoh (Deputy Public Prosecutors) for prosecution; Boon Khoo Lim and Dora Chua Siow Lee (Dora Boon & Company) for accused.
Parties : Public Prosecutor — Thong Ah Fat

Criminal Law

10 August 2010

Choo Han Teck J:

1 The accused was a 32-year old Malaysian. He drove to Singapore on 12 January 2009 and arrived at the Woodlands Checkpoint about 4.55pm. His car JKQ 7274 was searched and 142.41g of diamorphine were found in ten packets wrapped in plastic. Five of the packets were found under the driver's seat and another five were found in the haversack found on the floorboard behind the driver's seat.

2 The prosecution adduced evidence to show that the ten packets contained 142.41g of diamorphine. The accused did not challenge the scientific evidence and the defence was that the accused thought that he was carrying "ice", the colloquial term for methamphetamine, which is a different drug from diamorphine.

3 The prosecution adduced one contemporaneous statement by the accused and recorded by Senior Staff Sergeant Koh Yew Fie ("SSSgt Koh") on 12 January 2009, and six other statements recorded by Woman Inspector Wong Jin Shan Agnes on 14 January 2009, 15 January 2009, 16 January 2009 (two statements) and 16 September 2009. The accused only challenged the admissibility of the statement recorded by SSSgt Koh. He claimed that the statement was not voluntarily given because SSSgt Koh falsely induced him to admit that he knew that he was carrying diamorphine. The statement referred to the diamorphine as "Beh Hoon", the common term for heroin, but the accused denied knowing that. I disbelieved him and his account of what happened between him and SSSgt Koh because it was neither convincing nor coherent. Furthermore, the accused claimed that he gave the statement after he was told by SSSgt Koh "*if you want to enjoy you must live with the consequences*". His testimony did not convince me that this led to a weakening of his resolve such that he gave answers to SSSgt Koh's questions which he would not have done so otherwise. He was also inconsistent as to when this remark by SSSgt Koh was made. The accused's second assertion was that SSSgt Koh told him that he (SSSgt Koh) would speak to the judge and get the court to sentence the accused to "8 to 10" years imprisonment only. The evidence of the accused on this point was weak, and even if I found that this was true, he admitted that such a statement was only said once and that it was made after he had already given the answers. Consequently, I admitted the statement as I was satisfied that it was not made under any threat, inducement, or promise.

4 The accused's defence was that he had no knowledge that the ten packets contained heroin. He asserted that only one packet was opened and he had no idea that the other nine contained the same white powdery substance. He claimed that he believed he was carrying "ice", a different drug from diamorphine. He said that he used to smoke "ice" in Malaysia and he had been enticed into smoking it by his supplier. Counsel for the accused submitted that he accused was a gullible person. He did not, however, seem so to me. The evidence given by the accused was very thin and did not raise any doubt in my mind that he knew that he was carrying diamorphine. Additionally, he failed to give a reasonable explanation as to why he did not say in his s 122(6) statement that he thought he was carrying diamorphine. Instead, he said that he had nothing to say.

5 For the reasons above, I was satisfied that the accused knew that he was carrying diamorphine in the ten packets seized from him on the day of his arrest. I therefore found him guilty as charged and sentenced him to suffer death.

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