

Public Prosecutor v Ng Ah Kang
[2001] SGHC 321

Case Number : CC 47/2001
Decision Date : 22 October 2001
Tribunal/Court : High Court
Coram : Woo Bih Li JC
Counsel Name(s) : Chan Wang Ho and Seah Kim Ming Glenn (Attorney-General's Chambers) for the prosecution; Ang Sin Teck (Loo Ngan Chor & Co) [assigned] and D Vivekananda (Niru & Co) [assigned] for the accused
Parties : Public Prosecutor — Ng Ah Kang

Judgment

GROUND OF DECISION

BACKGROUND

1. The accused Ng Ah Kang faced two charges. The second charge was stood down and the prosecution proceeded on the first charge.
2. Under the first charge ('the Charge'), the accused was charged with the offence of importing into Singapore a controlled drug, specified in Class A of the First Schedule to the Misuse of Drugs Act, Cap 185, on or about 1 March 2001 at about 6.15am by having 31 packets of granular substance containing not less than 610.15g of diamorphine in a motor car bearing registration number JFY 6358 ('the Car') at Customs Examination Bay Green Channel Lane R2, Woodlands Checkpoint, Singapore.
3. The accused pleaded guilty to the Charge but the prosecution proceeded to prove its case.

The Prosecution's Case

4. On 1 March 2001 at about 6.15am, PW7 Chief Custom Officer ('CCO') Zainal Abiden Bin Atan stopped the Car driven by the accused while on duty at Customs Examinations Bay Green Channel Lane R2, Woodlands Checkpoint, Singapore. It was a red coloured Proton Wira.
5. Upon inspection of the boot of the Car, he noticed that the speaker box was unusually big.
6. After a while, he noticed a hole on one side of the speaker. He put his finger into the hole and felt some plastic inside. He asked the accused what was inside the speaker box but the accused kept quiet. He then called PW10 Higher Customs Officer ('HCO') Gopalan Nelakandan for assistance.
7. As HCO Gopalan was approaching the Car, he shouted something. The accused was running away from the Car.
8. Customs Officer ('CO') Shahrman Bin Daud gave chase while HCO Gopalan ran towards a Police Post to seek assistance.
9. CCO Abiden remained behind to guard the Car.
10. At about 6.45am both HCO Gopalan and CO Shahrman returned. They had not been able to

catch the accused.

11. Various packets of substance were found in the speaker box. Some were the subject of the Charge.
12. Further searches for the accused were conducted.
13. The accused was subsequently found at about 9.35am of the same day in a manhole in an area of bushes near the exit of the Arrival Lorry Bay ('the Manhole').
14. The accused was injured and was eventually lifted out of the Manhole with the assistance of the Singapore Civil Defence Force.
15. The accused had entered Singapore using a Malaysian Passport bearing the name of Leong Chee Yoong and Passport Number A10636256 (Exhibit P80).
16. On the next day, a Malaysian Identity Card 581115-08-5277 and a Malaysian driving licence were some of the articles recovered from the Manhole where the accused was found. Both the identity card and driving licence bore the name Leong Chee Yoong.

Cautioned Statement by accused

17. In his cautioned statement given on 7 March 2001 between 1444 hours and 1516 hours pursuant to s 122(6) of the Criminal Procedure Code ('CPC') Cap 68 to Assistant Superintendent ('ASP') Toh Soon Teck, the accused said, 'I have nothing to say'. The statement was taken with the assistance of an interpreter as the accused chose to speak in Hokkien.
18. The other statements referred to below were also taken with the assistance of an interpreter.

Second statement from accused

19. ASP Toh recorded another statement from the accused under s 121 of the CPC on 8 March 2001 at about 1435 hours.
20. The statement reads:

' I am known as "Ah Kiat" to family and my friends.

2 On 1 March 2001 at about 4 to 5 a.m., I drove my car, JFY 6358, to the carpark of Sentosa Shopping Centre, Johor Bahru. I parked the car there and open the car boot and walked away. After half an hour later, my handphone, number:012-7603551, rang. I answered the call and the male voice spoke to me in Malay to the effect the things were inside the car and I could drive off. I drove to a deserted place nearby. I opened the car boot and saw a paper box. I opened the paper box and saw three different types of wrappings. The first type was newspaper wrapping contained in plastic bags, the second type was in polythene wrapping and the third type was wrapped in masking tape.

3 I then opened the speaker box in the car boot and placed all the wrappings into the speaker box. As I placed the wrappings into the speaker box, I counted

them. There were a total of 22 "liap" of newspaper wrapping in plastic bags, a total of 9 "liap" of polythene wrappings and 5 "liap" of masking tape wrapping. From the wrappings, I knew that the 22 "liap" and the 9 "liap" were all containing heroin and the 5 "liap" were containing opium. I knew one "liap" of heroin is over 400 grams but I do not know the weight of one "liap" of opium.

4 I took about 10 minutes to put all the wrappings into the speaker box. Then I fixed back the speaker box. After that I drove straight to Singapore. On arriving Woodlands Checkpoint, I drove my car to the Immigration Counter whereby my Malaysian forged passport was stamped. Then I drove into the bay for cars which had nothing to declare. At that point, a male Malay officer in blue uniform asked me in Malay to stop my car. He told me to open the car boot and told me to get down of my car to follow him to the car boot. I opened the car boot from the driver seat and alighted and followed the officer to the car boot. He did a search in the boot and then asked me whether the speaker box could be opened. I answered that it could not be opened. He then walked to the car and searched the inside of the car. While searching, he asked me whether there was anything inside the car and I said no. he found nothing and switched off my car engine and went back to the car boot.

5 The officer did another search in the boot. At this point, another officer came to my car boot. He was a male Malay officer in blue uniform. The first officer used his hand to fiddle with the speaker box and through a small opening, he pulled out a newspaper wrapping contained in a plastic bag. He asked me what was it and I replied that I did not know. He then continued to search the speaker box and I immediately fled towards the direction of Singapore.'

Third statement from the accused

21. ASP Toh recorded a third statement from the accused on 9 March 2001 at about 1440 hours. This statement was recorded under s 121 of the CPC.

22. The statement reads:

'The statement recorded on 08.03.2001 @ Paragraph 1 to Paragraph 5 was read back to me in Hokkien and I affirmed it to be true and correct.

6 I ran till I reached a slope where I dropped a shoe. I cannot remember whether it was right or left shoe. Then I continued to run across a road meant for lorries. I knew it was for lorries as I heard sound of lorry engines. After I reached the other side of that road, there were some bushes. As I was trying to run across the bushes, I slipped into a drain and rolled into a manhole. There were 2 levels inside the manhole and I hit the metal railing at the first level and then fell onto the bottom level. I felt painful all over my body and I could not move.

7 At this point, I used my leather belt to tie on the metal railing to try and hang myself. The buckle of the belt gave way and the leather belt slipped off. I then fell onto the bottom level. After that I took off my shirt and tied to my leather belt and try to hang myself again using the same method. I was again unsuccessful as I struggled to breathe and the leather belt that was tied to my

shirt slipped off again. I laid on my back on the bottom of the manhole and sometime later I heard voices outside the manhole. I shouted "hello hello" to get the attention from people outside the manhole. A while later, a plain cloth officer and a fireman came down. They tied me to a stretcher and lifted me out of the manhole. I was then conveyed to Tan Tock Seng Hospital in an ambulance. Later I was transferred to Changi General Hospital where I was warded.

8 I am now shown a black travel bag with the word "Garfield" (Recorder's note: Accused was shown Exhibit "B"). This bag belongs to me and I used it to placed
9 "liap" of heroin wrapped in polythene inside the speaker box.

9 I am now shown a left brown shoe of "Weinbrenner" brand. This shoe belongs to me and I dropped it while running down the slope. (Recorder's note: Accused was shown Exhibit "F"). I now told to try it on which I did. (Recorder's note: Accused was told to put it on to try and I found the shoe fitting).

10 I am now shown a Malaysian Passport with the name "Leong Chee Yoong". I identified it as the passport I used to entry (sic) Singapore on the day of my arrest on 1 Mar 2001. I bought it from Johor Bahru for RM 7000. (Recorder's note: Accused was shown the Malaysian Passport seized from him by the custom officers)

11 I am now shown a bunch of 2 keys with a remote control embossed with the word "Proton". I identified the "Proton" car key as the key to my car JFY 6358. The other key was for my house key in Johor Bahru. I cannot remember the address of the house. (Recorder's note: Accused was shown the bunch of 2 keys seized by the custom officer)

12 The address No. 29 Jalan Permas 12/17 Taman Permas Jaya 81750 Masai, Johor. This is an address provided by the car company to register for my car JFY 6358. I never stayed at this address. I do not know anyone staying at this address.

13 I am now shown a piece of paper containing four sets of telephone numbers. I do not know the owners of these telephone numbers. (Recorder's note: Accused was shown a piece of paper recovered from the car JFY 6358 ashtray compartment).

14 I am now shown a dark blue Nokia handphone. This is my handphone. There were two SIM cards inside the battery compartment. One is a Singtel SIM card and the other Malaysian SIM card. The Singtel SIM card is a Hi-Card and it could only be used in Singapore. The Malaysia SIM Card bears the number 012-7603551 and is for use in Malaysia. (Recorder's note: Accused was shown the Nokia Handphone seized by the Custom Officer).

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17 I am now shown a memo pad. This memo pad belonged to me. I do not remember the telephone numbers written on it. However I recognized the number

93927867 as my Singtel SIM Card number. (Recorder's note: Accused was shown a memo pad recovered from the car).

18 I am now shown a Malaysia Identity Card, No. 581115-08-5277 belonging to one "Leong Chee Yoong". This is the Identity Card I used in Malaysia and I bought it for RM 7000 in Malaysia. I am now shown a Malaysia Driving License bearing no. K.P. 5473685 belonging to one "Leong Chee Yoong". This is the Driving License which I used in Malaysia and I bought it for RM 1200. (Recorder's note: Accused was shown a Malaysia Identity Card and a Malaysia Driving Card recovered from the manhole).'

Fourth statement from the accused

23. ASP Toh recorded a fourth statement from the accused on 12 March 2001 at about 1425 hours. The statement was recorded under s 121 of the CPC.

24. The statement reads:

'The statement recorded on 09.03.2001 @ Paragraph 6 to Paragraph 18 was read back to me in Hokkien and I affirmed it to be true and correct.

19 I am now shown RM 1550 which was recovered from my shirt pocket. The money was left over from my mahjong winnings from gambling den in Johor Bahru. This money is not from drug dealings.

20 The Malaysian car JFY 6358 was bought sometime in January 2001. This is a brand new Proton Wira and is not a stolen or second hand car. I paid RM 10,000 for the downpayment. I cannot remember which finance company I had to pay my installments to. I had not paid any installment yet. I had used the identity of Leong Chee Yoong to purchase this car. I do not know whether there exists any Leong Chee Yoong in Malaysia or not. The RM 10,000 which I used to pay for the down payment was money from my drug dealings.

21 The back set of my car cannot be opened to gain access to the special compartment of speaker box where the drugs were hidden. This special compartment could only be opened by pressing on two buttons located at the dashboard near the steering wheel. This special compartment and the speaker box were installed in Johor Bahru by a car accessories shop.

22 My Malaysian drug supplier, "Jimmy" was introduced by a Malaysian friend known to me as "Ah Hor". I do not have their contact numbers. Whenever they need to find me, they call me at my Malaysian handphone, 012-7603551. That was about 2 months ago. "Jimmy" asked to deliver drugs to Singapore. He would pay me RM 800 for one "liap" of heroin and RM 1,200 for one "liap" of opium delivered to Singapore. On the day of arrest, I brought in 31 "liap" of heroin and 5 "liap" of opium and I would be paid a total of RM 30,800 for that trip. I would be paid once I had delivered the drugs in Singapore and returned to Johor Bahru. Since January 2001 until the day of arrest, I had delivered more than 10 occasions. During those occasions, I had delivered heroin between 10 over "liap" and 20 over "liap" and on 3 or 4 occasions, I also delivered 4 to 5 "liap" of opium

together with the heroin. "Jimmy" would call me at my handphone to tell me to collect the drugs from a carpark at Taman Sentosa Shopping Centre and then to deliver to Singapore at various places arranged by him.

23 On the day of my arrest, I was supposed to drive to Ang Mo Kio Central carpark and wait for one unknown male Chinese to come to my car to pick up all the drugs. My supplier had already told that person my car number and he would then wait for me at the carpark. I would merely passed over the drugs to the person and not collect any money from him. Someone else would collect money from him. I do not have his contact number. Then I would return straight to Johor Bahru using the Woodlands Checkpoint. Normally the following day I would receive my payments from "Jimmy".

24 In the black travel bag with the word "Garfield", beside the 9 "liap" of heroin, there was also a digital weighing scale which was together with the heroin that I collected earlier. It was meant to be passed to the unknown male Chinese in Ang Mo Kio Central carpark. I do not remember placing any glove inside the travel bag.

25 I am now informed that my urine was tested positive for Ecstasy. I provided 4 bottles of urine for testing during my stay in Changi General Hospital. I admit consuming Ecstasy while I was in Johor Bahru. The last occasion was at "Tian Huang" nightclub in Johor Bahru two days before my arrest.

26 I made about RM 150,000 for all the previous drug deliveries to Singapore. I lost all the money on gambling as well as spending at nightclubs in Johor Bahru.

27 I was born in a family with 2 elder sisters and 4 younger sisters. They are not involved in any criminal or drug activities. I studied at Li Hua Primary school at Yio Chu Kang Road. I studied till Primary 5 and left school as I had no interest in studies. I then worked in a timber factory located at Defu Lane for about a year. Then I worked as a contract painter. After that I only worked as odd job laborer till now. I only worked when there is work available. The rest of the time I spent in gambling on horse and soccer. In 1974 I was arrested for secret society activities. I was involved in the SS group "Ling Hai San". This SS group is not (sic) longer active. I then reported for Police Supervision at Paya Laber Police Station for 3 years. My other criminal records include armed robbery and gambling offences. I was placed under probation for one year in 1978. After which I did not commit any more offence and I continue to work as an odd job laborer. I did not serve my N.S. due to my secret society background.'

Evidence for the prosecution

25. Various witnesses gave evidence for the prosecution to establish its case.

26. In particular:

(a) Expert evidence was tendered for the prosecution to establish the nature of the drugs and its weight found in the boot of the Car.

(b) The accused was also identified as the driver of the Car by PW7 CCO Zainal Abiden Bin Atan.

(c) PW 10 HCO Gopalan identified the accused as the person whom he gave chase to and the person who was taken out of the Manhole.

(d) PW15 Corporal Tang Kim Lam Jeffrey, PW16 Sergeant Auw Swee Khoon and PW22 Staff Sergeant P Sivabalan identified the accused as the person in the Manhole.

27. The accused did not dispute the material facts as alleged by the prosecution.

28. The voluntariness of the statements from the accused was not challenged.

29. At the close of the case for the prosecution, Mr Ang Sin Teck, lead Counsel for the accused, said he had no instructions to make a submission.

No evidence for the defence

30. Thereafter, the accused elected to remain silent.

31. The accused also did not call any other evidence.

Closing submission stage

32. Mr Ang said that he had no instructions to make a closing submission.

33. DPP Mr Chan then made his closing submission.

Conviction and Sentence

34. In view of the evidence tendered for the prosecution, the accused's statements, the silence of the accused and the absence of any other evidence for the accused, I found that the prosecution had proved its case beyond a reasonable doubt.

35. Accordingly, I convicted the accused and sentenced him according to the law.

Sgd:

WOO BIH LI
JUDICIAL COMMISSIONER

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