Opinion on the case of Periasamy s/o Govindasamy

[1] The Accused, Periasamy s/o Govindasamy (the **"Accused"**), is charged with murder under s300(a) of the Penal Code 1871 (the "**PC**"). He is charged so after police investigation finds him to be the likely perpetrator in the unnatural deaths of Mr Ravie Shastri ("**D1**") and Ms. Anjali Sharma ("**D2**").

The Law Surrounding s300(a) of the PC

[2] For authoritative understanding of s300(a), we look to s300(a) of the PC. For brevity, the limbs of s300(a) can be summarised and divided as follows -

> **Element 1** – that the act had caused the death of the person;
> ..... the *actus reus* (the "**First Element**")
> **Element 2** – that the act had been done with the intention of causing death;
> ..... the *mens rea*[1] (the "**Second Element**")

[3] In establishing the First Element, we must inquire as to if the deaths of the victims were consequential to the Accused's act. This has been held to be a question of fact, and must be resolved on the basis of evidence[2].

[4] In establishing the Second Element, inquiry centers around if the Accused when committing the First Element, did so with the aim of causing death, and "*strives to "bring about" the outcome of death*". This intention can be discerned either through admission of the Accused, or by inferring from the conduct of the Accused at the material time[3].

[5] In the case of inferring intention for the Second Element, it must be noted that inquiry need be concerned only with if it was present *at the time the First Element arose*. Premeditation, while a sign of intention in an *a fortiori* fashion, is not the only way of proving intention – and such intention can arise even *just before the commission of the First Element*[4].

[6] In such cases, certain factors are taken into account to aid determination of the Second Element. Courts have held that relevant approaches include the weapon used[5], the location[6] and number of the injuries[7], surrounding circumstances[8] and the intended commission of an act knowing it to result in death[9].

[7] Intention also defined in the penal code at s26C – where it refers to direct and/or oblique intention. Therefore, any inference of the above must show that the act was deliberate with the goal of causing death, or that an act that was certain to result in death was intended.

First Element

[8] In any event, the First Element would be satisfied in this case – Dr Peter Lim's report found that both D1 and D2 died from exsanguination consequential to the stab wounds.

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1 *Public Prosecutor v. Teo Ghim Heng* [2021] SGHC 13 at [64]
2 *Public Prosecutor v. Teo Ghim Heng* [2021] SGHC 13 at [65]
3 *Public Prosecutor v. Teo Ghim Heng* [2021] SGHC 13 at [66]
4 *Iskandar bin Rahmat v. Public Prosecutor and other matters* [2017] 1 SLR 505 at [34]
5 *Public Proescutor v. Tharema Vejayan s/o Govindasamy* [2009] SGHC 144 at [101]
6 *Ranwilage Suren Sanjeewa Fernando v. Public Prosecutor* [1998] 3 SLR(R) 269 at [46]
7 *Public Proescutor v. Tharema Vejayan s/o Govindasamy* [2009] SGHC 144 at [101]
8 *Chan Lie Sian v. Public Prosecutor* [2019] 2 SLR 439 at [70]
9 *Public Prosecutor v. Wang Zhijian and another appeal* [2014] SGCA 58 at [47]

[9] There is no admission by the Accused that he had stabbed the victims. However, he does recollect that he had "took the knife", which is corroborated by his fingerprints being found on the knife, assessed to be the likely murder weapon.

[10] It would therefore stand to reason that if only he and the victims were in the flat at the material time, and he had control of the knife, absent any exceptional circumstances, it was the Accused that had inflicted the stab wounds.

[11] Therefore, with death by exsanguination being a result of the stab wounds most certainly inflicted by the Accused, the First Element is established.

Second Element

[12] The multiple stab wounds on both victims alone are sufficient grounds for a court to infer that the requisite Second Element was present at the material time for both charges – however, for completeness, we move to additionally consider additional submissions for each charge.

[13] The nature of D1's fatal wound gives rise to a further submission in respect of the charge concerning D1's death – that this wound, being on the chest, is indicative of the Accused having calculated his stabs to impact an obviously known region of the body containing vital organs with the intention of injuring vital organs to cause death.

[14] This is supported by evidence in Dr Lim's statement that such a wound must have been forceful and intentional. Therefore, in both possible submissions, direct and/or oblique intention to cause death can be inferred from the conduct of the Accused.

[15] In respect of the charge concerning D2, further submissions on the matter of s300(a) should draw attention to the location of the stab wounds. As was noted again by Dr Rajan Gopi, these wounds were "deep incise wounds *in the chest* and abdomen region".

[16] The fact that D2's Fatal Wound was on the abdomen should not alone preclude the intention to kill was not present – as it bears reiterating, what matters is that this wound was afflicted with the objective of death in mind, inferred through the *totality of the surrounding circumstances.*

[17] Therefore, much as with D1, the presence of D2's wounds on the chest is indicative of the Accused's calculation of his stabs to impact a known region of the body housing vital organs. These wounds, being deep also indicate a considerable level of force was applied by the Accused, which in combination with the calculation aforementioned must lead to the inference that he had intended to kill D2.

Exceptions

Grave and Sudden Provocation

[18] The requisite test for the defence of grave and sudden provocation involves a subjective and objective inquiry[10].

[19] The subjective inquiry would pass, but the objective inquiry fails. This subjective portion requires that the Accused had actually lost control. In the Accused's statements, he said his mind had "went blank", indicating a loss of the self at the time. Furthermore, the region of the stabs being spread out should also similarly indicate this being true, as was similar in *Pathip Selvan s/o Sugumaran v. Public Prosecutor.*

10 *Pathip Selvan s/o Sugumaran v. Public Prosecutor* [2012] 4 SLR 453

[20] However, the objective inquiry (which asks if an ordinary person similar to, and in the same position as the Accused) fails in that the provocation had lapsed by the time the murders were perpetrated. With the provocation taking place at or around 7.30pm (by the Accused's own evidence), but the murders only occurring close to 6 hours later (as by the facts), any provocation that existed, would have been dissipated by the passage of time.

[21] This supported by the fact that the Accused must have stayed around for hours after the provocation arose (when the effect of provocation would've been most effective), all while having not stabbed them until much later in the night. This defence therefore is not made out.

Right of private defence

[22] The right of self-defence arises when an accused is put in a position where an offence against his body without reasonable recourse to authorities exists. This right however, is subject to two conditions – that he was the subject of such an offence, and that he had no recourse to lawful authority.

[23] This fails on the first step – the Accused's own evidence does not in any way state that D1 had attacked him, and therefore the right of private defence would not have arose.

[24] Furthermore, this right would extend only in so far as it was proportional[11]. By disarming D1, any stabbing that extended beyond that would have been retributive as opposed to defensive – which is manifestly disproportional against an unarmed person. As such, this defence is inapplicable.

[25] It is therefore recommended that the s300(a) charge *viz-a-viz* D1 and D2 be proceeded with.

11 *Tan Chee Wee v. Public Prosecutor* [2004] 1 SLR(R) 479