

Public Prosecutor v Quek Loo Ming
[2002] SGHC 171

Case Number : CC 43/2002
Decision Date : 05 August 2002
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Ong Hian Sun and Jason Tan [Attorney-General's Chambers] for the prosecution;
Subhas Anandan and Anand Nalachandran [Harry Elias Partnership] for the
accused
Parties : Public Prosecutor — Quek Loo Ming

Judgment

GROUND OF DECISION

1. The accused is 56 years old. He worked as a forensic scientist at the Toxicology Laboratory of the Institute of Forensic Science prior to his retirement. He pleaded guilty to two charges under the Penal Code. The first was a charge under s 304a and the second under s 326. He was indicted under the first charge for culpable homicide not amounting to murder for causing the death, by means of a poisonous pesticide, of one Fong Ai Lin, a 62-year old woman. Two other persons were hospitalized but not seriously injured after consuming the same pesticide. These form the second and third charges. The third charge under s 326 was taken into consideration for purposes of sentencing. The background to these charges are as follows.

2. The accused mixed about a quarter teaspoon of methomyl into a 1.5 litre bottle of mineral water with the intention of leaving it so that the chairperson of his Residents' Committee, one Mdm Lam, would drink it and have diarrhoea. He did this because he felt that his intended victim had been taking advantage of him and not giving him due credit for his work in the Residents Committee. He also felt that she was making him run unreasonable errands. He had no intention of harming any of the three victims. In mitigation his counsel said that it had not occurred to him at that time that persons other than his intended victim might take the poison. The Deputy Public Prosecutor, Mr. Ong informed the court that there is no available scientific evidence as to how much methomyl is required before a fatal consequence occurs. The evidence, however, shows that the three persons who drank from the contaminated bottle were affected in various degrees, namely one death and two serious internal bodily harm. On these facts, Mr. Ong asked that I impose a sentence of life imprisonment as a deterrence to others. He asked that even if life imprisonment is not imposed, a stiff sentence of more than 10 years ought to be imposed. He urged me to impose the sentence to reflect and give vent to the outrage of the community.

3. The court stands between the accused and the lynch mob, not in place of it. The punishment imposed must reflect the expectations of a just and civil society, and, of course, within the discretion given to it by the legislature. Above all, every case must be considered on its own merits. The punishment that best reflects the justice of the case is one which is not so lenient that it mocks the law, nor belittles the suffering of the victim and his family. But it must not be so harsh that it severs all retreat and hope for his correction. The more likely that the sentence may dim that hope, the more care must be taken before such punishment is imposed.

4. Only in the case of murder does the law apply strictly the concept of "an eye for an eye" and for which no amount of mitigation is relevant. In other instances, it is virtually impossible to impose a punishment exactly in proportion to the offence. A "punishment befitting the crime" is not synonymous

with "a punishment equal in all respects to the detriment of the crime".

5. Some crimes are more heinous than others. But I would not be justified in venting the full and unbridled fury of one's personal indignation on the offender; any more than I would be justified in expressing an abundance of charity to him. The just sentence carries the opprobrium of society without losing the tenderness of humanity.

6. Life imprisonment for a 56 year old is not the same punishment as life imprisonment for a 26 year old. I will hasten to add that this does not mean that a 56 year old cannot or must not be imprisoned for life, merely that age is one of the factors when the sentence is being considered in totality. So far as a need to deter others is concerned, I will observe that this case is an unusual one. As far as I know, there has been no similar case previous to it. The facts of this case, including the mitigating circumstances, mark the lower end of the crime of which he is charged. It is not appropriate to mete a harsher sentence on him merely as a deterrent to contingent cases that may or may not occur; or may vary in severity and gravity. Hence, I think it will be sufficient for me, so far as deterrence to others is concerned, to sound a warning to those who may contemplate a similar mischief that they may be liable to be dealt with more severely if they do not have similar mitigating factors.

7. If imprisonment is one way for an offender to pay his debt to society, then we must have regard for the unblemished record of this man, for it shows that he had hitherto been serving society long and well, not only in his work, but also outside it. Any fair accounting must necessarily take this fact into consideration. Although the seriousness of the offence requires no emphasis, I need to state for the record that the remorse felt by the accused appears to me to be genuine, and so that too, must have its place on the scales.

8. Mr. Subhas submitted that none of the victims were the intended ones, but I do not accept that this is a mitigating factor of much merit. If an offender intended a particular offence against a person, he has no excuse merely because he missed and hit someone else by that very same act that constitutes the offence.

9. For the reasons above, I am sentencing you to a term of 9 years imprisonment in respect of the first charge; and 3 years imprisonment in respect of the second charge. The sentences of imprisonment shall run concurrently with effect from 10 January 2002. A distinction must be drawn between different degrees of gravity under a s 304a charge. The taking of a life is the basic and necessary ingredient under this charge. Hence, one has to look at all other factors and the circumstances of the case to determine the how heinous the individual act is.

Sgd:

Choo Han Teck

Judicial Commissioner