

Public Prosecutor v Chandrasekaran S/O Perianasamy
[2000] SGHC 234

Case Number : CC 65/2000
Decision Date : 15 November 2000
Tribunal/Court : High Court
Coram : Lee Seiu Kin JC
Counsel Name(s) : Raymond Fong for the prosecution; Accused in person
Parties : Public Prosecutor — Chandrasekaran S/O Perianasamy

JUDGMENT:

Grounds of Decision

1 Before me, the Accused pleaded guilty to the following charges:

1ST CHARGE

"You, Chandrasekaran s/o Perianasamy, are charged that on the 15th day of February 2000, sometime between 12 p.m. to 1.10 p.m. at Chinese Garden, off Yung Ching Road, Singapore, did assault one Areat Selvamary A/P Joseph, female/37 years, to wit, by kicking her on her head, punching her on her face and using a knife to slash her neck and face, and thereafter left her unattended, with such knowledge and under such circumstances that if, by these acts, you had caused death, you would have been guilty of murder and by such acts, you had caused hurt to the victim and you had therefore committed an offence under section 307(1) of the Penal Code (Chapter 224)."

2ND CHARGE

"You, Chandrasekaran s/o Perianasamy, are charged that on the 15th day of February 2000, sometime between 12 p.m. to 1.10 p.m., at Chinese Garden, off Yung Ching Road, Singapore, did commit theft of the following items:

- 1) 1 black-coloured "Puma" sling bag,
 - 2) 1 gold-coloured "butterfly" design ring, valued at S\$60,
 - 3) 1 gold-coloured "lady head coin" design ring, valued at S\$160,
 - 4) 1 gold-coloured "leaf" design ring, valued at S\$180,
 - 5) 1 pair of gold-coloured ear rings with stones on it, valued at \$200,
 - 6) 1 gold-coloured bracelet with a bell attached, valued at \$250,
 - 7) 1 gold-coloured pendant with 2 studs attached, valued at \$300,
- and
- 8) cash of \$5.

Which total value is \$1155, in the possession of one Areat Selvamary A/P Joseph, female/37 years, and you have thereby committed an offence under section 379 of the Penal Code (Chapter 224)."

2 The learned Deputy read the following statement of facts to which the Accused admitted:

"The accused is one Chandrasekaran s/o Perianasamy M/33 yrs old, NRIC No. S1819785E. At the time of offence, he was residing at Block 105, Teck Whye Lane #04-490. He is currently unemployed. He was the ex-boyfriend of the victim.

2 The victim is Areat Selvamary A/P Joseph F/37 yrs old, FIN: F7111235R. At the time of the offence, she was residing at Block 123 Yishun St 11 #10-511. She is a Singapore work permit holder, and was working as a security officer for 3M Company at the time of the offence.

Facts

3 The accused and the victim were having an affair with each other and were physically intimate with each other at the time of the offence. The accused was going through divorce proceedings with his wife and the victim was already married and her husband was in Malaysia. The accused did not know that the victim was married until sometime in February 2000.

4 The accused arranged to meet the victim on 15 February 2000, in order that they may have a discussion over their relationship. The accused was upset and jealous that the victim was married. He wanted the victim to divorce her husband. The victim refused to do so and the purpose of the meeting was to resolve the problem of the relationship.

5 The accused and the victim met at Chinese Garden MRT station at about 12 p.m., and then went to Chinese Garden, which is located off Yung Ching Road. While walking along the park, both of them walked along a path that led to the reservoir of Chinese Garden. The said path was a mud track that was surrounded by thick bushes and trees. They then had a dispute about their relationship.

6 The accused then assaulted the victim by kicking and punching her. The accused punched the victim about 5 to 6 times on her face and also kicked the victim about 4 times at the rear part of her head.

7 The accused also took out a 15-cm knife that he brought along, to slash the face and the neck of the victim. He slashed the face and the neck of the victim several times. Investigations reveal that he had brought the knife along to use it on the victim if the victim made him angry.

8. The accused then left the victim bleeding and lying semiconscious on the path and he took the victim's jewellery, cash and her sling bag with him and left Chinese Garden at 1.10 pm. The accused threw the said 15-cm knife and the sling bag into a pond on his way out of Chinese Garden. Investigations reveal that he had stolen the following items:

- 1) 1 black-coloured "Puma" sling bag,
- 2) 1 gold-coloured "butterfly" design ring, valued at S\$60,
- 3) 1 gold-coloured "lady head coin" design ring, valued at S\$160,
- 4) 1 gold-coloured "leaf" design ring, valued at S\$180,
- 5) 1 pair of gold-coloured ear rings with stones on it, valued at \$200,
- 6) 1 gold-coloured bracelet with a bell attached, valued at \$250,
- 7) 1 gold-coloured pendant with 2 studs attached, valued at \$300, and
- 8) cash of \$5.

The total value of the items stolen is \$1155. Investigations reveal that the accused had pawned the said jewellery.

9 The victim was subsequently discovered at about 3.40 p.m. that day when the Police were informed accordingly. She was subsequently found by the Police at about 7.10 p.m. The Police found her lying on a clearing on the said path that led to the reservoir, some 10 to 15 metres away from the main walking path of Chinese Garden, which would not be apparent to any person who would have walked by the area. The victim was seen to be bleeding from the mouth with cuts on her neck when she was discovered. She was then conveyed to National University Hospital for treatment. The victim went into a coma the next day and regained consciousness on 21 February 2000.

10. The accused was arrested on 21 February 2000.

11. Efforts were made to retrieve the said knife that the accused had used to cause hurt to the victim but the said knife could not be found.

Medical Reports

Your Honour, I have tendered two medical reports to Court.

12. Sir, the first medical report dated 20 May 2000 states that the victim had suffered multiple lacerations around her neck, chin and right hand. A scan done on the head of the victim also revealed that there was an obliteration on the lower part of her brain.

13. The victim subsequently underwent back hollow depression and insertion of external ventricular drain on her head injury. The victim also required a surgically created passageway, consisting of plastic tubing and one way valves, implanted between a cerebral ventricle and the right atrium of the heart to drain the excess fluid from the brain to hydrocephalus. The victim was subsequently discharged from the hospital on 27 April 2000.

14. The further medical report dated 11 September 2000 states that the victim could die from the continued compression of the brainstem caused by the swelling of the brain, if she was not operated on. The lacerations on the victim's neck and face would not cause extensive bleeding unless it was continued for a prolonged period of time."

3 I accordingly convicted the Accused of the 2 charges. This was what he said in mitigation:

"Your Honour, I am a married man. I have three children. Since the date of my arrest, I have not seen my children. My wife betrayed me and she has ran away with another man. My children are in Ramakrishna Mission and in welfare homes. Two of my daughters are under my custody. I have to take care of them upon my release. At first when I started having relationship with the victim, she told me that she was not married.

If she had not lied to me in the first instance, I would not have done this thing.

She has cheated me, your Honour. I have not committed any offence previously. I have been working in ST Logistics for 10 years and I have not committed any offence. I have not been to prison at all, your Honour. This is my first offence. I

regret for what I have done. I am sorry. Please be lenient with me, your Honour.

That is all, your Honour."

4 In addition, the Accused submitted a written mitigation to the court through the Superintendent, Queenstown Remand Prison. This is in the form of a letter and it reads as follows:

"Your Honour, my name is Chandrasekaran s/o Perianasamy, and I am thirty-three years old. At the time of my arrest, I was employed by Singapore Technologies (S.T) as a store-man (Armoury Department). I have been working at the above-said S.T. for the past ten years and I was drawing a gross income of \$1035 at the latest. I am married, and it was ten years ago (1990) when I tie the knot and had a traditional marriage. My wife bore me three children, the eldest a boy who is 10 years old, second a girl who is 9 years old, the youngest also a girl of 8 years old. As from 1998 December, I have been separated from my wife pending a divorce hearing. Temporarily, my wife has been granted custody of my eldest son, and the remaining two younger children have been placed in my custody. I lived with my mother at her place. It is a three-room HDB flat. I have been paying my wife a sum of \$375 per month prior to my arrest. I also have to bear the expenses of my other two children who are in my custody. So, I took up another job as a security officer guarding a warehouse in the night to put up with the expenses for both sides. It wasn't easy, but I have to see for the best interest of my children. I had to make sure they received the best education, love and care. When I was working in the night, my mother would stand-in to take care of my children. I would have to rush home to prepare them for school and send them as my mother is old and had leg problems for some time.

Your Honour, sometime in November 1999, I was introduced to the victim by a friend of mine named Hassan. I know Hassan from my working place. I called her and we agreed to meet each other at Yishun MacDonald's. We chit chatted and got to know each other. We spend an hour at the MacDonald's and left to send her to the nearest MRT station. I subsequently left for home after that. One week later, she, the Victim, called me and told me she wanted to come over my place for a casual visit. I agreed and gave her directions to my place. Later, when at my place, I noticed that she was very fond of my children and the children also liked her. To be honest, I was in love with her the first time I met her at the MacDonald's. I was thinking that it would be a good idea if I could manage to convince her of my love towards her and after my divorce, I intended to marry her. It was also for the sake of my children and at least they will have both mother and father love. I was thinking for the long-term benefit of my two children. I didn't want them to grow up not having a mother love which is very important. When I spoke to her about my intentions, she was very happy and told me okay. I was very very happy and celebrated by bringing the children and her out to a dinner and an amusement park. She told me she was single and working as a clerk here. December, January passed and in February on the 14th day, as we all know is Valentine's Day, I asked her out to dinner. She told me she can't and when asked why, she just said she will explain things to me the next day. So, the next day, which also happens to be the unfortunate day when the alleged attack took place, I met her at Chinese Garden. There she told me that she was married and she had lied to me on several issues. When I asked her

why she did that, she just told me that, to quote her own words (You don't expect me to marry you and bear the burden of raising two small monsters). She was very abusive not only to me, but to my 2 kids who have not harmed or wronged her. All my dreams were shattered just like that in an instant.

Your Honour, at this stage I assaulted her by slapping her repeatedly. When she fell, I kicked her and only then, when I felt a sharp pain at my ankle did I remember that I had a knife with me and used it to stab her. I was in rage and at that time I didn't care what happens to her or later to me. I was blinded with so much rage and hatred for her for abusing my children verbally and my trust. As for the knife, I just can't explain what it was doing with me. I will give no excuses for it and will fully bear the responsibility of my actions.

Your Honour, I am a first offender and I have never had a brush with the law prior to this offence. I also want the Court to know that I have also lost my two children to my wife. I am all alone now by myself and I urged the Court to have mercy on me. I am also prepared to take whatever punishment meted out by Your Honour as I know I have to pay for what I have done. But I also hope the Court will have some considerations and understand the circumstances which lead me to commit this act.

That will be all. Thank you."

5 In respect of the first charge, the learned Deputy referred me to 2 cases that dealt with offences under section 307(1) of the Penal Code. The first is Criminal Case 54/1994: *P.P. v Banphanuk & Anor*, in which the 2 accused persons were sentenced by the High Court to 8 years imprisonment. They had pleaded guilty to a charge of culpable homicide, but the learned judge amended this to one under section 307 because the records of the preliminary inquiry cast doubts as to whether the victim was not already dead at the time the offence was committed. However on appeal by the Public Prosecutor, the Court of Appeal held that the charge should not have been reduced because the records of the preliminary inquiry are generally not evidence before the court. The appeal court held that where an accused had made an unqualified plea of guilt and the statement of facts to which he admits discloses that the offence is made out, the court ought not to amend the charge unless there are exceptional circumstances. The Court of Appeal found no such circumstances in that case and reversed the decision of the court below. The appellate court proceeded to convict the accused persons on the charge of culpable homicide but maintained the 8-year imprisonment term imposed in the court below.

6 The second case is Criminal Case 9/1997: *PP v Chua Hwa Soon*. The accused there was a 25 year old sergeant in the Singapore Armed Forces. He was charged with the brutal murder of his brother's wife, a 39 year old housewife. A charge under section 307 was also preferred against him in relation to his nephew, the victim's 4-year old son, whom he had slashed 9 or 10 times with a chopper on the face, head, neck, both shoulders, both arms and left leg. His defences on the murder charge of diminished responsibility and grave and sudden provocation were rejected by the court. The accused was convicted of both charges and sentenced to death on the murder charge and to life imprisonment on the charge under section 307.

7 Although the sentences meted in the cases cited to me were useful guidelines in determining the appropriate sentence, I had borne in mind that each case must be determined on the basis of its unique circumstances. The facts of the present case were rather grave. The Accused kicked and punched the victim to such an extent that she suffered serious head injuries. Combined with the effect of delayed treatment, this resulted in her being in a coma for 6 days. Indeed, she was close to death and it is the Accused's good fortune that she did not succumb for he would then have faced a murder charge instead of one under section 307. In addition to those blunt injuries, the Accused had carried a 15 cm knife with him to the meeting. He said that he did so for protection as he had feared that the victim had informed her husband about him or arranged with other persons to attack him. In the event nobody else was there to threaten him; yet in addition to the brutal kicks and punches, he had used the knife to slash the victim, inflicting multiple lacerations on her neck, chin and right hand. I noted that the further medical report stated that

those lacerations would not have caused extensive bleeding unless untreated over a prolonged period. In this connection, I noted that the Accused had left the victim, who was bleeding and semiconscious, in a bushy area and it was fortuitous for her as well as for him that she was discovered by a passer-by and eventually brought to hospital for treatment.

8 The victim was a woman who had posed no physical threat to the Accused. They had been having an affair and on the day of the offence, she had told him that she wanted to stop it. Even accepting the Accused's version that she had heaped insults on him and his children, I totally fail to see how this in any way mitigates his reaction which was violent to the extreme. And at the end of this violence, not only did he leave her there in the bushes but he callously took her sling bag containing her cash and jewellery. He eventually pawned her jewellery for cash. If indeed he was actuated by an uncontrollable rage when he brutalised her, he had certainly regained control of his senses fast enough to have the presence of mind to help himself to her belongings. Furthermore, he had left her in that state in a discreet location. The circumstances are such as would raise the inference that he had left her to die. This is because if she survived there would be no way that he could escape punishment as she knew his identity.

9 As I have said earlier, the circumstances were rather aggravating and there was not much that the Accused had submitted by way of mitigating circumstances. However there were 2 factors in his favour. The first was his guilty plea. By doing so he could be said to have shown remorse and had spared the victim the further agony of giving evidence in a trial. Secondly, this was his first offence. Section 307(1) provides, where hurt is caused, for imprisonment for life or for a term which may extend to 10 years, plus caning. If not for the mitigating factors in the present case, I would have had no compunction about imposing the maximum term of life imprisonment, such were the aggravating factors.

10 In view of the circumstances of the offence and the mitigating factors, I sentenced the Accused to 10 years imprisonment and 12 strokes of the cane on the charge under section 307(1), and to 1 year imprisonment on the charge under section 379. I ordered the two sentences of imprisonment to run concurrently.

Lee Seiu Kin

Judicial Commissioner