

Public Prosecutor v Quek Loo Ming
[2002] SGCA 48

Case Number : CA No 11 of 2002
Decision Date : 08 November 2002
Tribunal/Court : Court of Appeal
Coram : Chao Hick Tin JA; Tan Lee Meng J; Yong Pung How CJ
Counsel Name(s) : Ong Hian Sun and Leong Kwang Ian (Attorney-General's Chambers) for the appellant; Subhas Anandan and Anand Nalachandran (Harry Elias Partnership) for the respondent
Parties : —

*Criminal Procedure and Sentencing – Sentencing – Lack of antecedents as mitigating factor
– Weighed against public interest*

Criminal Procedure and Sentencing – Sentencing – Principle of deterrence

Judgment

GROUND OF DECISION

1. In this case, the Public Prosecutor appealed against the sentence imposed on the respondent, Quek Loo Ming, who added methomyl to a bottle of water and caused the death of Madam Fong Oi Lin and serious injury to two other persons, namely Mr Richard Ho Sin Shong and Mr Wong Ah Kim. All three victims drank some water from the contaminated bottle. With respect to the death of Madam Fong Quek pleaded guilty to a charge of culpable homicide not amounting to murder under section 304A of the Penal Code, Cap 224. He also pleaded guilty to another charge of voluntarily causing grievous hurt to Mr Ho by dangerous means under section 326 of the Penal Code. As for the last victim, Mr Wong, Quek admitted that he had voluntarily caused grievous hurt to him by dangerous means and consented to having this charge taken into consideration for the purpose of sentencing.

2. On 5 August 2002, Quek was sentenced to imprisonment for a term of 9 years with respect to the first charge and 3 years with respect to the second charge. It was ordered that both sentences were to run concurrently with effect from 10 January 2002. The deputy public prosecutor, who took the view that Quek should be incarcerated for a much longer period, appealed against the sentence imposed on him. We agreed with him and ordered that Quek be imprisoned for 10 years with respect to the first charge and 5 years with respect to the second charge. We also ordered that the sentences are to run consecutively. We now set out the reasons for our decision.

Background

3. Quek, who is 56 years old and holds a Bachelor of Science degree from the University of Singapore, was formerly employed as a Laboratory Officer at the Toxicology Laboratory of the Department of Scientific Services ("DSS") for 12 years until June 2000. After his retirement, he served as a volunteer member of the Bukit Timah Zone 5 Residents Committee ("RC").

4. Investigations revealed that on 31 December 2001, a New Year's Eve party was organised by the RC. The party was to be held at the RC centre on the void deck of Block 319, Clementi Avenue. At around 4 pm on that day, Quek was asked by Madam Doreen Lum, the chairperson of the RC, to purchase 20 packets of chicken rice for a number of people who were helping out at the party. He bought and delivered the chicken rice but felt aggrieved at having been given the task without sufficient notice. In fact, he was already quite unhappy with Madam Lum as he thought that she had taken advantage of him and not given him sufficient credit for his work.

5. Quek decided to teach Madam Lum a lesson. He had in his possession some methomyl, a highly toxic insecticide. This is a controlled poison under the Environmental Pollution Control Act and is unavailable to the public. He had obtained the methomyl when he was employed by the DSS as he had been asked to handle a police exhibit involving methomyl that had been mixed with coffee drunk by a Filipino maid who committed suicide. He put one teaspoon or less of the methomyl into a 1.5 litre "Ice Mountain" bottle before filling it up with

water. He then proceeded to the RC centre and placed the bottle of contaminated water on top of a cabinet, which was directly opposite Madam Lum's office. Apparently, the RC centre's regular supply of mineral water was placed on top of the said cabinet.

6. As it turned out, Madam Lum did not drink the contaminated water. Mr Ho and Mr Wong drank from the contaminated water bottle. Some time later, Quek saw the said bottle in the refrigerator in the RC centre. He did not remove the bottle from the refrigerator even though he noticed that some 200 ml of the contaminated water had been consumed. Subsequently, Madam Fong drank some of the contaminated water. She found the water smelly and had the presence of mind to pour it away to prevent others from drinking it. All three persons who drank the contaminated water became very ill. They lost consciousness and began to foam at the mouth. All three victims were rushed to the National University Hospital for emergency treatment.

7. Madam Fong's medical report indicated that she had been quite well although she had a history of rheumatoid arthritis and was a hepatitis B carrier. When she was admitted to hospital after drinking the contaminated water, she was drowsy and had bilaterally small pupils. Subsequently, she became even more drowsy and hypoxemic. She was intubated and was admitted to the intensive care unit. Investigations revealed a depressed level of pseudocholinesterase that was compatible with organophosphorous poisoning. She then suffered a lack of blood supply to her heart and required drugs to bring up her blood pressure. Her condition continued to worsen and she developed renal failure. She died on 3 January 2002 at around 1.13 pm. The autopsy report certified the cause of death as "Bronchopneumonia" and "Acute Methomyl Poisoning".

8. The other two victims, Mr Ho and Mr Wong, who were also hospitalised, did not die but they were dangerously ill and went through much suffering.

9. In due course, police investigations linked the methomyl to Quek and he was duly arrested. He contended that he had no intention to kill anybody and that he had only wanted Madam Lum to have diarrhoea after drinking the contaminated water.

The trial judge's decision

10. As Quek pleaded guilty, the only issue before the trial judge was the imposition of an appropriate sentence. The trial judge noted that the prosecution had asked him to impose a sentence of life imprisonment or imprisonment for more than 10 years on Quek to reflect the community's outrage and to deter others from attempting to commit the same crimes. However, he took the view that the facts of this case, including the mitigating circumstances, marked "the lower end" of the crimes in respect of which Quek was charged. He pointed out that Quek had an unblemished record and that "he had hitherto been serving society long and well". He added that he believed that the remorse felt by Quek was genuine. As for the question of deterrence, he thought that it would be sufficient for him to "sound the 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". As such, he sentenced Quek to a term of 9 years imprisonment in respect of the first charge and 3 years imprisonment in respect of the second charge. He ordered that the sentences of imprisonment shall run concurrently.

The appeal

11. The deputy public prosecutor, who reiterated that the sentence imposed on Quek was manifestly inadequate, pointed out that Quek's act of poisoning the mineral water cannot be viewed as being on the "lower end of culpability". This was not a crime that resulted from impulsive behaviour. Quek had ensured that the methomyl would not be detected easily and he had hoped to snare his intended victim by placing the deadly bottle of contaminated water in a place where she was likely to consume it. He ought to have known that there was a real risk that others might end up drinking the contaminated water. He was not an amateur who was handling unknown substances. He knew that methomyl had killed a Filipino maid because he had a role in the investigations relating to her death and he had taken the poisonous substance home for reasons best known to himself. It was fortuitous that only three persons drank the contaminated water because the deceased had the presence of mind to throw away the contaminated water. Viewed in this light, what Quek did with complete disregard for the lives and safety of others deserved condemnation in the strongest possible terms.

12. The prosecution asserted that a sentence of a longer term of imprisonment was called for in order to deter others from following Quek's footpath. He pointed out that in *Xia Qin Lai v PP* [1999] 4 SLR 343, 356, Yong Pung How CJ had said as follows:

[T]he principle of deterrence (especially general deterrence) dictated that the length of the custodial sentence awarded had to be a not insubstantial one, in order to drive home the message to other like-minded persons that such offences will not be tolerated, but not so much as to be unjust in the circumstances of the case.

13. In the present case, when the effect of remission under the *Prisons Regulations*, Cap 247, Regulation 2, is taken into account, Quek may only be in prison for around 6 years. The deputy public prosecutor rightly pointed out that such a sentence will send the wrong message to the public regarding the punishment imposed for causing death by poisoning. Admittedly, Quek has had an unblemished record. However, it must be borne in mind that in *Sim Gek Yong v PP* [1995] 1 SLR 537, 541, the question of an accused's record was put in the proper perspective when the court noted as follows:

Like any other personal factor put forward on an accused's behalf in mitigation, the absence of similar antecedents is something to be taken into account by the sentencing court and weighed in the balance against other, possibly opposing, factors. The first and foremost consideration in this balancing process, however, must be the public interest. Any sentence imposed must be such that it enables our criminal law not merely to punish crime effectively but also to prevent it.

14. Quek's unblemished record must thus be weighed against the heinous act committed by him. As for whether or not he was genuinely remorseful, the DPP asserted that if he had really been remorseful, he would have helped his victims by providing the doctors with information on the specific poison he had administered to them so that they could have been treated more effectively at an early stage. He pointed out that Quek did not surrender himself to the police and was arrested only after investigations linked him to the poison in question.

15. In the final analysis, it must be borne in mind that the poisoning of the water in this case was not done by a layman. It was carried out by a former laboratory officer who knew that methomyl is a potent poison that had caused the death of a Filipino maid. Its potency was such that a small amount from the contaminated bottle was sufficient to lead to the death of Madam Fong and put the lives of two other victims in grave danger. As Quek had acted with complete disregard for the lives and safety of others, we agreed with the prosecution that he should be incarcerated for a longer period than nine years. We thus sentenced Quek to imprisonment for 10 years for the first charge and 5 years for the second charge. As the maximum penalty for committing either of the said offences is life imprisonment, we ordered that the two terms of imprisonment are to run consecutively.

Sgd:

YONG PUNG HOW
Chief Justice

CHAO HICK TIN
Judge of Appeal

TAN LEE MENG
Judge