

Public Prosecutor v Sivaraman Reddy Sivakumar
[2002] SGHC 48

Case Number : CC 10/2002
Decision Date : 13 March 2002
Tribunal/Court : High Court
Coram : Tay Yong Kwang JC
Counsel Name(s) : Imran Abdul Hamid and Jason Tan (Attorney-General's Chambers) for the prosecution; Thangavelu and Shankar (Rajah Velu & Co) (briefed) for the accused
Parties : Public Prosecutor — Sivaraman Reddy Sivakumar

Judgment

GROUNDS OF DECISION

The Charge

1. The Accused was originally charged with murder. Before the trial commenced, the Prosecution tendered an amended charge which reads as follows :

"That you, **SIVARAMAN REDDY SIVAKUMAR**

on or about the 29th day of September 2001, between 12.00 p.m. and 1.45 p.m., at Blk 12 Pine Close #12-87, Singapore, did commit culpable homicide not amounting to murder by causing the death of one Charulatha d/o Kuppusamy Raman, to wit, by stabbing her in the abdomen with a knife, which act was done with the intention of causing such bodily injury as is likely to cause death, and you have thereby committed an offence punishable under section 304(a) of the Penal Code, Chapter 224.

The Accused pleaded guilty to the above charge. Section 304 (a) Penal Code provides for imprisonment for life or for up to 10 years. The Accused may also be subject to a fine or to caning.

The Statement of Facts

2. The Accused admitted all the facts set out below :

"Background

1 The informant is Corporal Riduan Bin Raja Marican of Tan Tock Seng Hospital Police Post (TTSH).

2 The deceased is Charulatha D/O Kuppusamy Raman, female, 30 years old, NRIC No: S-7120039F. Before her death, she was a customer service officer with Qantas Airways.

3 The accused is Sivaraman Reddy Sivakumar, male, 26 years old, Indian National, Passport number: A-8911944. Accused is in Singapore on a social visit pass. The Deceased and accused were married. They have a 1 year old baby

boy.

4 On 29 Sep 01 at about 3.40 pm, Corporal Riduan who was then on duty at the Tan Tock Seng Hospital (TTSH) Police Post, was informed by staff nurse Bavani that the deceased, had died from stab wounds. Deceased was pronounced dead at 2.37 pm.

Investigations

5 Sergeant Azam from Tanglin Police Division was at TTSH conducting investigations into another case when he received the information on the death of deceased. He conducted preliminary investigations.

6 Sergeant Azam interviewed the accused person at the waiting area of the hospital. The accused stated that the deceased was his wife and they stayed at Blk 12, #12-87, Pine Close. On 29 Sep 2001, at about 12.00 – 1.45 pm, he had a dispute with the deceased over her desire to meet her mother and staying at her grandmother's house at No: 10B Jubilee Road for the night.

7 The accused claimed that the deceased had stabbed herself once on the stomach when the accused refused to allow her to leave the house. After the deceased collapsed, the accused pulled the knife out of the deceased's abdomen. He broke the knife and washed his hands and the knife over the kitchen sink. Accused then threw the knife into a rubbish bag located in the kitchen. The accused then sent the deceased to Tan Tock Seng Hospital.

8 SIO Patrick Lim, from Bedok Police Division, took over investigations from Sergeant Azam. He went to the residence of deceased and accused and entered the unit #12-87, Pine Close. He found a few droplets of blood on the floor near the entrance leading into the kitchen. 2 handbags and 1 plastic bag containing costume jewelry belonging to the deceased were found on the floor in the living room. Some cast-off droplets of blood were found on the wall of the living room adjacent to the handbags. A kitchen knife with a broken blade used in the stabbing was found in a rubbish bag inside the kitchen.

9 There was no evidence to suggest that a violent struggle had taken place. The immediate neighbours were questioned and they did not hear any commotion coming from the unit at about the time of incident.

Autopsy Report, Annex A

10 On 30 Sep 2001 at about 9.00 am, the forensic pathologist, Dr Wee Keng Poh, conducted a post-mortem on the deceased. He found that the deceased had suffered two stab wounds, one at the lower abdomen with a 2.5 cm cut and had a penetrating-depth of 13 cm. The other stab wound was near the rib-cage with a 2 cm cut and a penetrating-depth of 9 cm. Besides the 2 stab wounds, the deceased had a 'defence injury' in the form of a bruise on her left had.

11 Dr Wee was of the opinion that 2 injuries were sufficient to have caused the death of the deceased in the ordinary course of nature as the 2 stab-wound were inflicted on a vital area of the body – the abdomen. He certified the cause

of death was hemorrhage due to stab wounds of the abdomen. Dr Wee opined that each of the stab wounds was fatal.

12 Dr Wee opined that that 2 stab wounds could not have been self-inflicted. There were no "hesitation-cuts" found on the skin which are characteristic of a self-inflicted stab wound. He found that the stab wounds were made deliberately by someone intent to cause harm to the deceased. In addition, the clothing that the deceased was wearing at the time of the incident usually would not have any stab tears if these wounds were self inflicted. He was of the opinion that a person intent on committing suicide by self-stabbing would bare that area of his body that he intends to inflict the injury.

13 Dr Wee also opined that it is not likely that two fatal abdominal stab wounds with a single defensive injury (bruise) over the left arm were caused in the course of a struggle. Considering the totality of the circumstances, Dr Wee is of the opinion that it may be possible for one stab wound to be caused in the course of a struggle, but not two stab wounds. One stab wound would have incapacitated the deceased because of the pain and blood loss that there will not be any further need for the assailant to continue to struggle to "take control of the knife" and further inflict the second stab wound.

14 The accused had maintained that the deceased had stabbed herself not once but twice with the kitchen knife with a blade measuring 20.2 cm. When told of the autopsy findings, the accused admitted that he had stabbed his wife twice.

Circumstances Leading To Death

15 On 29 Sep 2001, both the accused and deceased woke up at about 11.00 am. A while later, deceased received a phone call from her mother. They were to meet up at Serangoon Road at about 1-1.30 pm for the deceased to buy a gold 'thali' (worn on the neck) representing that the deceased is married.

16 After the phone conversation, deceased dressed up in her uniform as she was working on the afternoon shift that day. Deceased told accused that she was going to Serangoon Road to meet her mother before she goes to work. Upon hearing that, accused told her that he would come along with her to meet her mother. The request was refused by the deceased. Accused insisted on coming along since he was alone in the house and he needed to pass time.

17 An argument ensued and the accused refused to allow the deceased to leave the house without him. Accused stood at the main door preventing the Deceased from going out of the house.

18 According to the Accused, deceased went to the kitchen and reached for 2 knives from the knife-stand. She placed one of the knives near her throat. The Accused claimed that the deceased threatened to commit suicide if the accused did not let her go. Accused claimed that he relented to her demands.

19 The deceased went into the baby's room and took a set of her clothing from the baby's play-pen and walked out of the room. She then placed the clothes into her blue coloured bag, which was on the floor in the living room. After

placing the clothes in the bag, she carried it together with her handbags and plastic bag. The accused asked the deceased where she was going with the extra clothes. She replied that she was going to Jubilee Road. The argument continued.

20 The accused got hold of deceased's left hand which was holding the knife, with his right hand, to grab the knife away from her by pulling it towards him. While snatching the knife away, the accused stabbed the deceased on her stomach. He then withdrew the blade from the deceased's stomach and stabbed her a second time. The deceased collapsed. The accused had deliberately inflicted both stab wounds on the abdomen and which act was done with the intention of causing such bodily injury as is likely to cause the death of his wife.

21 The accused pulled the knife out from the deceased's stomach with his hands. He broke the knife. When he noticed that his hands were stained with blood, he ran to the sink and washed his hands together with the broken knife. Thereafter, he dropped the broken knife into the rubbish bag.

History Between Deceased and Accused

22 The accused and deceased were married sometime in 2000. They registered their marriage in Mar 2000 at the Registry of Marriages, in Singapore. Since then, the accused stayed at No. 10B Jubilee Road. Accused was not able to get an employment pass to work in Singapore. The accused has been renewing his social visit status since his arrival in Singapore until the incident. The deceased supported him financially.

23 Soon after marriage, they had frequent quarrels over domestic problems. Disagreements with their parents and parents in law and family members staying in the house at Jubilee Road, strained their relationship further. There was one prior incident of assault of the deceased by accused when deceased was found with a swollen cheek.

24 On 2 Dec 2000, deceased gave birth to their son. The birth of their son, elevated the mood of the deceased and she was extremely happy. However, the relationship with accused deteriorated.

25 To save their marriage and for the sake of their son, the deceased bought a 3-room resale flat at Blk 12 Pine Close #12-87 for them to stay together. They had just moved into Pine Close a week before the deceased met her death.

Antecedents

3. The Accused had a clean record before this case.

The Mitigation Plea

4. The Accused is 26 years old and was born and brought up in India. His father abandoned the family of 3 children when the Accused was 5 years old and they were brought up by the mother, a woman

steeped in tradition. His mother had regular prayer meetings in Singapore and the deceased got to know her through her aunt.

5. The deceased was very depressed by a failed relationship and her thyroid disorder at that time and turned to the Accused's mother for advice and spiritual guidance. She was advised to seek medical treatment in India.

6. On one such visit, the deceased got to know the Accused and their relationship developed to the extent that they decided to get married. His mother disapproved of the proposed marriage as the deceased was several years older than the Accused and because she felt that the deceased might not fit into their culture and tradition. Despite this, the couple registered their marriage in Singapore on 9 Mar 2000.

7. Subsequently, they informed the Accused's mother that they wished to hold their customary wedding in May 2000. When the mother found out that the deceased was pregnant, she advised them against going through the customary rites during their wedding. However, the Accused went along with the wishes of the deceased to carry out the customary rites. As a result, the Accused's mother refused to attend the wedding on 15 May 2000.

8. After the wedding, the couple moved into the house of the deceased's uncle and her grandmother at 10B Jubilee Road as they had no home of their own. The deceased's uncles and their families were already living there.

9. The Accused remained unemployed as he was unable to obtain an Employment Pass to work here. He had been working in the State Bank of India and was in charge of sales, being the top performer for 1999, before he resigned in December that year to join the deceased in their new life in Singapore. He was undergoing a course of study leading to a Bachelor of Business Administration degree but did not complete it. He arrived here in Feb 2000 and has remained here on a social visit pass since then, save for a period of about one month when he returned to India.

10. The members of the deceased's extended family in 10B Jubilee Road did not treat the Accused too kindly. They were unhappy that they had to vacate one room for the couple to live in. They ridiculed, taunted, humiliated and embarrassed him, reminding him constantly of his inability to find work. His occasional verbal retaliation to their remarks created problems in the relationship between him and his wife.

11. The Accused loved his wife dearly, preparing meals for her, accompanying her to the bus stop when she left for work and waiting for her return to have their meals together. He made sure she took her prescribed medication. During her pregnancy, he also ensured that she had a cup of milk daily as advised by the doctor. On one occasion when she refused to take the milk and threw it away, the Accused became angry and slapped her once. That was the only time he had laid hands on her.

12. When their son was born on 2 Dec 2000, the Accused and his wife were overjoyed. However, the members of his wife's family took control of the child and gave the Accused hardly any time to be alone with his son. When his wife told him she would be sending their son to join her parents, who have emigrated to Australia, he was not happy with the arrangement but relented for the sake of the son.

13. In April 2001, the Accused was assaulted by his wife's father at a bus stop. He had to seek medical attention as a result of that incident. He produced a medical report in support of this allegation.

14. Things got so bad that the Accused decided to leave 10B Jubilee Road in May or June 2001. He went to stay with his friends, returning constantly to visit his young son. When he tried to explain his difficult position to the members of the deceased's family by way of a letter, they were deeply offended by it and an aunt rubbed the letter on his face, tore it into pieces and threw them at his face.

15. All these eventually led to the purchase of the flat at Pine Close. A housewarming ceremony was held on 12 Sep 2001 and the couple moved into their new home about a week later.

16. On 29 Sep 2001, the Accused wanted to accompany the deceased to meet her mother at Serangoon Road so that he could explain to her their marital problems. He hoped that her mother would then advise her to go for counselling and to take her medication regularly. A bitter quarrel took place when she vehemently refused to allow him to accompany her. She also wanted to stay at 10B Jubilee Road that night and the Accused was concerned that would give the wrong impression to her family members that they were having marital problems. The quarrel became physical when she scratched and hit him. He was then clad in a towel only and allowed her to scratch him without resisting. She took the knife and threatened to get him into trouble by hurting herself. She abused him physically and verbally and his pent up frustrations began to work on him when the deceased raised the old family issues again.

17. The Accused's main concern was to take the knife away from the deceased who was behaving erratically. However, this resulted in a struggle and he stabbed her twice.

18. Immediately after the stabbing, the Accused came to his senses and cried out in despair in Tamil, "Latha, this thing has happened to us ". He then sought frantically to bring her to a doctor. Forgetting to even put on his footwear or closing the door to the flat, he carried his badly hurt wife into the lift and brought her downstairs. He asked someone to call for an ambulance but when he saw a car passing by, he pleaded with the driver to send him and his wife to the nearest doctor. The driver kindly agreed to do so.

19. During the journey in the car, he held on to his weakening wife, kept talking to her and praying for her. His wife asked him to hold her tightly. He also performed mouth-to-mouth resuscitation and pounded her chest when she lost consciousness.

20. Counsel for the Accused also tendered a report by Dr Lim Yun Chin, a psychiatrist in private practice who is also a Visiting Consultant in the Singapore General Hospital and the Institute of Mental Health. After interviewing the Accused on 7 Mar 2002, during which essentially the same matters mentioned in the mitigation plea were recounted, Dr Lim opined that *"there was a rapid building up of intense anxiety and fear when he saw his wife brandishing the knife. He was acutely aware of his wife's propensity to harm herself, given her unpredictable outburst and his paramount concern was to snatch the knife away from her. However, when he felt the searing pain from the cut inflicted by her actions and she showed no remorse, he began to feel the surge of anger and rage towards her"*.

21. Dr Lim went on to explain that when a person was hurt or injured physically or emotionally, it was a very primal emotional response to feel angry and that this could lead to a sudden surge of aggression, even for a mild-mannered person. He was also of the opinion that the Accused's behaviour after the stabbing suggested intense remorse following the abatement of the anger, fear and anxiety.

22. The psychiatrist also perused the medical reports on the deceased made in Feb 1996, Aug 1998 and Jun 1999 and stated that the thyroid disorder diagnosed in 1998 and the other auto-immune

diseases that the deceased could have been suffering from were often associated with mental instability including depression and irritability. Her own doctor reported in 1998 that she was "feeling unstable". Dr Lim added an opinion that the deceased was prone to mental instability due to her thyroid illness but, upon objection by the Prosecution, Defence Counsel agreed that that opinion should be deleted.

23. Finally, the Accused pleaded for leniency and compassion to be shown by the Court. It was submitted, on the authority of *PP v Tan Kei Loon Allan* [1999] 2 SLR 288 that life imprisonment was not an appropriate sentence in this case.

The Prosecution's Response

24. The Prosecution objected to the admissibility of the psychiatric report insofar as it related to the deceased as Dr Lim was attempting to do a psychological autopsy on her state of mind. Two authorities were cited to support the objection against admissibility – *R v Gilfoyle* [2001] 2 Cr App Rep 57 and *Teh Thiam Huat v PP* [1996] 3 SLR 621. In any event, the Prosecution argued, the autopsy report dated 30 Sep 2001 on the deceased indicated that her thyroid appeared normal.

The Sentence

25. I will first deal with the legal issue raised by the Prosecution that, on the authority of the cases cited, the psychiatrist's report here is inadmissible. I do not think *R v Gilfoyle* went so far as to hold that a medical expert who has not interviewed a subject cannot give an expert opinion on his condition. That case was concerned with the admission of further evidence after trial and the psychologist's reports were held to have failed to identify any criteria by which the Court there could test the quality of his opinions. The application to admit further evidence was dismissed in any event as the Court of Appeal did not think that the jury would have returned a different verdict even if the further evidence had been admitted.

26. As in *Teh Thiam Huat v PP*, Dr Y C Lim's report in our present case is admissible but it is at best a hypothesis based on past medical reports concerning the deceased and is therefore of not much assistance to the Court. In any event, as will become apparent from the rest of my judgment, the question whether the deceased had suicidal tendencies or not is quite immaterial to the facts of this case.

27. The only witness of the events leading to the fatal stabbing on 29 Sep 2001 is the Accused. Except where admitted by the Prosecution, the Court is not bound to accept everything said in mitigation as the truth. The Court is entitled to test his account against the admitted facts and the objective evidence and to decide whether his version is inherently incredible or self-contradictory.

28. The matters pleaded by Defence Counsel show at best that the Accused was subject to occasional taunts and uncomplimentary remarks from the Deceased's family members. However, the Accused was not a poor, pitiful victim of circumstances. It appears that he was quite capable of standing up for himself whenever the circumstances required him to do so. He was capable of giving his wife a swollen cheek when he was angry. He is not an uneducated man. He is no stranger in this country and neither is his mother. He also has friends here.

29. Even if all the things he alleges about the treatment he received from the deceased and her family are true, do they justify or mitigate his conduct on 29 Sep 2001 in the new matrimonial home ?

By then, he had already left 10B Jubilee Road sometime ago. He and his wife had a place of their own to call home. The fact that his wife wanted to go alone to Serangoon Road to meet her mother was of no great import and would certainly not cause a man to fly into an implacable rage unless he is an extremely unreasonable and suspicious sort of person and it is quite apparent from the events of that day that the Accused is indeed such a person.

30. Even if it were true that his wife had taken the knives from the kitchen, she was not threatening to harm him with the knives in any way. The Statement of Facts and even the Accused's statement to the psychiatrist (at paragraph 19 of the report) show that all the wife wanted to do was to get her clothes and leave the flat. She was clearly not about to stab or slash him or herself. There was no reason at all for any fierce struggle to take place unless the Accused was the aggressor.

31. How could a man who, a few moments earlier, stood submissively clad in a towel while his wife clawed ferociously at his unprotected flesh suddenly become so overcome by anger and rage over a cut inflicted unintentionally in the course of a struggle precipitated by himself that he would wrest the knife away and plunge it twice into his wife's abdomen? Why would a man determined to thwart any attempt at suicide stab his wife not once but twice in such a violent manner? The chain of events points undoubtedly to the Accused being the aggressor on 29 Sep 2001.

32. I am also not convinced that he experienced 'intense remorse' after the stabbing. He was more fearful and anxious about the consequences of his actions than he was remorseful. This is shown by the fact that he maintained that his wife had stabbed herself until confronted with the forensic report the next day.

33. The following are the mitigating factors in his favour :

- (1) he pleaded guilty upon being offered the amended charge ;
- (2) he had no criminal record ; and
- (3) he did try quite frantically to save his wife after the stabbing.

34. In the circumstances, I do not think life imprisonment is appropriate here. I sentence the Accused to 10 years' imprisonment with effect from 29 Sep 2001 and to receive 15 strokes of the cane.

Sgd:

TAY YONG KWANG
JUDICIAL COMMISSIONER