

Public Prosecutor v Hwang Yew Kong
[2006] SGHC 22

Case Number : CC 3/2006
Decision Date : 10 February 2006
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Imran Abdul Hamid and Adam Nakhoda (Deputy Public Prosecutors) for the Prosecution; Lee Ah Fong (Ng Lee and Partners) for the accused
Parties : Public Prosecutor — Hwang Yew Kong

Criminal Procedure and Sentencing – Sentencing – Accused stabbing father to death – Accused suffering from hallucination and schizophrenia – Whether conditions for imposing life imprisonment satisfied – Whether accused of unstable character and likely to commit similar offence in future – Whether to impose caning

10 February 2006

Tay Yong Kwang J:

1 The accused is now 47 years old. He pleaded guilty to the following charge:

That you, **HWANG YEW KONG**

on the 27th day of May 2005, at or about 9.51p.m., in unit #02-385, Block 11, Haig Road, Singapore, did commit culpable homicide not amounting to murder by causing the death of one Hwang Song Chian, male 72 years old, to wit, by stabbing him with a knife, which act was done with the intention of causing such bodily injury as was likely to cause death, and you have thereby committed an offence punishable under section 304(a) of the Penal Code, Chapter 224.

Under s 304(a) of the Penal Code (Cap 224, 1985 Rev Ed), the court may sentence the accused to imprisonment for life or for up to ten years. The court may also impose a fine or order caning.

The facts

2 The accused was residing in the four-room flat named in the charge (“the flat”) with his elderly parents. The man killed by him was his father, a retired public officer. The accused’s mother is 71 years old and has been a patient of the Institute of Mental Health (and its predecessor organisation) since 1957. Presently, she resides with and is being cared for by her daughter, who is 48 years old and married, with two children aged 17 and 13.

3 Prior to the offence, the main care-giver and provider for the accused and his mother was the deceased. The accused’s sister would visit their parents at the flat occasionally but she had little contact with the accused.

4 On 27 May 2005, at about 9.30pm, the accused was in his bedroom watching television when he heard his father, who was in the living room, asking him whether he had taken his money. The accused denied he had done so and felt that his father was unfairly accusing him of theft. An argument broke out between them. The accused lost his temper and went into the kitchen. He saw a knife on the table, picked it up and returned to the living room where he confronted his father. The knife had a blade measuring some 10cm.

5 His father asked him what he wanted to do with the knife. The accused demanded to know whether his father was still accusing him of theft. More angry words were exchanged. When his father attempted to remove the knife from the accused's hand, a struggle broke out. When the accused managed to break away from his father's hold, he dashed towards the elderly man and began slashing and stabbing him at the face, neck, upper arms and shoulders. His father screamed for help and collapsed onto the floor. However, the accused continued to slash and stab him. These acts were admitted to have been done with the intention of causing such bodily injury as was likely to cause death.

6 His mother heard the screams and came out of the master bedroom where she had been sleeping. When she demanded to know why the accused was stabbing his father, the accused stopped and put the knife down on the floor. He said that his father, who was by then lying motionless and bleeding profusely, had accused him of theft. At about 9.51pm, the accused called the police, saying, "I murder my father, he dead and blood all over".

7 Police officers arrived at the flat shortly thereafter. When they knocked on the main door, the accused's mother opened it. The accused was standing behind her, with his clothes and hands all bloody. He informed the police officers that he had killed his father and placed his hands in front of his body for them to handcuff him. His father was lying supine on the floor in a pool of blood.

8 A few minutes later, a paramedic arrived at the flat. After examining the father, she pronounced him dead.

9 The autopsy report noted that there were 22 wounds on the deceased. The cause of death was certified to be due to multiple stab wounds of the neck and the trunk.

10 The accused was subsequently assessed at the Institute of Mental Health. Dr Tommy Tan, a consultant psychiatrist, noted that the accused had been diagnosed as suffering from schizophrenia in 1988 and that his illness was characterised by behavioural change, delusions and auditory hallucination. Although the accused was put on medication, his auditory hallucination and paranoid delusion persisted. His last visit to the outpatient clinic at Woodbridge Hospital was on 6 May 2005, three weeks before the date of the killing. The accused told Dr Tommy Tan that there were voices telling him to "go and do evil thing" and to "stamp" his father. He also said that his mind went blank and that he "lost control".

11 Dr Tommy Tan opined that the accused was suffering from residual schizophrenia, characterised by residual hallucination and delusion, blunting of affect, low volition and poor social functioning. At the time of the offence, the accused was unable to ignore the hallucination and felt compelled to obey the voices telling him to stab his father. However, the accused was found to be capable of forming the intention to cause the injuries and of knowing that his act was likely to cause death. The accused would also require long-term treatment and would pose a long-term risk to himself and to others if he felt compelled to obey the voices again.

12 The only antecedent that the accused had was a conviction for theft in September 1992 for which he was fined \$800.

13 On these facts, the Prosecution submitted that the accused ought to be sentenced to imprisonment for life, citing the Court of Appeal's decision in *Purwanti Parji v PP* [2005] 2 SLR 220 ("*Purwanti*"). In that decision, the Court of Appeal reiterated the principles stated in *Neo Man Lee v PP* [1991] SLR 146, where the then Court of Criminal Appeal set out three conditions which would justify a sentence of life imprisonment. They are:

- (a) The offence or offences are in themselves grave enough to require a very long sentence.
- (b) It appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future.
- (c) If the offences are committed, the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.

The Prosecution submitted that all three conditions were satisfied in the present case. It also highlighted the fact that the Prisons Department had the facility to manage inmates with psychiatric conditions. A psychiatrist would also visit Changi Prison twice a week to review such inmates.

The mitigation plea

14 As Dr Tommy Tan was in court, the Defence sought, and was granted, leave to ask him some questions to clarify his opinion on the accused. Dr Tommy Tan agreed that in normal circumstances, where there was no provocation or heated argument, the accused would be able to control his behaviour and impulses. He also agreed that the accused had no history of violence since 1988 but pointed out that the accused's father, who had taken good care of him all these years, was no longer around. If the accused's sister was willing to take care of him, it would help the accused to manage in life. However, because of his constant hallucination, he would be more likely to be provoked than others not suffering from his condition.

15 The Defence pointed out that *Purwanti* involved a case of premeditation by the accused there before the killing. The accused in that case also bore a grudge against the victim and sought to conceal her crime by making a false report. In contrast, the present accused stopped the stabbing the moment his mother shouted at him. He then telephoned his sister and the police and surrendered peacefully when the police arrived.

16 The Defence did not dispute that the first and the third conditions set out in *Purwanti* were satisfied on the facts of this case. It argued, however, that the second condition was missing in the present case as it was not shown that the accused was a person of unstable character likely to commit such offences in future. According to his sister, the accused was a very gentle person with no temper and was almost obedient when normal. Further, for some 18 years, he did not lose his self-control despite the hallucination and hearing the voices. He also went for treatment and took his medication regularly. The accused's sister was willing to help him cope after his term of imprisonment by visiting and telephoning him although she would not be able to let him live with her family and their mother in her matrimonial flat.

17 The accused completed two years of national service and was in the reserves for several years until he was exempted from further service because of his schizophrenia at the age of 29. He worked in various jobs on an irregular basis but stopped working in January 2005. He was unemployed at the time of the offence. When he had no income, he used to borrow from his mother but would repay her whenever he found work. He had stolen some money from his mother's wallet in the past but knelt down before his parents to beg for forgiveness then. That was the only time he had stolen from his parents but they still complained about missing money sometimes.

18 The accused has expressed deep regret to various people for having killed his father, saying he should not have done that notwithstanding the unfair accusation made by his father against him. It was the unfair accusation that had provoked him and caused him to lose his self-control. He has

also accepted responsibility by pleading guilty and would have to live with the thought that he killed his father who had worked hard to support him throughout his life.

19 Based on the above, Defence counsel urged the court to sentence the accused to the lower tier of ten years' imprisonment in s 304(a) of the Penal Code and not to order caning.

The decision of the court

20 Although caning is one of the sentencing options in s 304(a) of the Penal Code where male accused persons are concerned, it is not imposed in cases where the accused persons have been suffering from some mental impairment. I sympathised with the accused because of his unfortunate mental condition and, in the circumstances of this case, did not think he deserved to be caned. I therefore did not order any caning.

21 In deciding whether to impose imprisonment for life or for a term of up to ten years, the court has to consider the three factors reiterated in *Purwanti*, which, incidentally, did not involve an accused with mental impairment. In *PP v Kwok Teng Soon* [2001] 4 SLR 516, a decision affirmed on appeal in Criminal Appeal No 22 of 2001, I expressed the view that the purpose of the three conditions in *Neo Man Lee v PP* was not to determine how evil a particular accused person could be but to extrapolate from his condition and his actions the likelihood of a relapse and what the probable consequences might be in such an event.

22 The medical evidence showed that the accused here has been suffering from schizophrenia from 1988 and that he had persistent auditory hallucination and paranoid delusion despite having received medication, the most recent treatment being three weeks before the date of the offence. He would require long-term treatment and would pose a long-term risk both to himself and to others should he be unable to resist the voices in his head again.

23 In these circumstances, it would be highly unrealistic to say that the accused was not of unstable character within the meaning of the second condition in *Purwanti*. He may present a picture of calm and normality when there is nothing to provoke or upset him. However, as could be seen from the tragic and violent death of his father, it would not take very much to trigger off his explosive rage and turn him into a maniacal and merciless killer. In his uncontrollable rage, he could turn brutally on someone who was very close to him and who had taken care of him all his life. His extremely violent reaction was totally out of proportion to a relatively minor accusation. Rational people who do not suffer from mental impairment, unlike the unfortunate accused, would probably seek to kill the accusation or the lie, not kill the accuser or the liar. The crucial question that must be addressed is, would he be able to exercise self-control should he be upset by someone (within his family or otherwise) or something and start hearing voices in his head again? I am not at all confident that he would be able to do so. This is particularly so when he would be living completely by himself when he is released from prison, with no one to supervise and support him constantly.

24 I commend the accused's sister for offering to help him upon his release within the constraints of her circumstances but, really, there is unlikely to be anyone in his family who would be able to give him the consistent care that he will need for the long term and to ensure that he goes for regular treatment and takes his medication dutifully. There appears to me a very real risk that the tragedy of 27 May 2005 might repeat itself in future, with someone else taking the place of the hapless father. What the accused might do to others in a few moments of frenzy is probably more important than what he might do to himself.

25 On the other hand, if the accused remains in prison for as long as he requires treatment for

his mental condition, he would be taken care of by the prison authorities who are equipped for this task and who are able to keep him in a safe and controlled environment. It is therefore for the good of society and of the accused that he be sentenced to imprisonment for life.

26 For the reasons stated above, I sentenced the accused to undergo imprisonment for life with effect from the date of his arrest, 28 May 2005.

Copyright © Government of Singapore.