

Public Prosecutor v Muhammad Nor Haiqal bin Shaman
[2017] SGHC 292

Case Number : Criminal Case No 67 of 2017
Decision Date : 13 November 2017
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : April Phang and Tan Wee Hao (Attorney-General's Chambers) for prosecution;
K.P Allagarsamy (Allagarsamy & Co) for accused
Parties : Public Prosecutor — Muhammad Nor Haiqal Bin Shaman

Criminal Law – Statutory offences – Misuse of Drugs Act

Criminal Procedure and Sentencing – Sentencing

[LawNet Editorial Note: The appeal from this decision in Criminal Case Appeal No 51 of 2017 was withdrawn.]

13 November 2017

Choo Han Teck J:

1 The accused pleaded guilty to and was convicted for three drug related offences. The first involved having not less than 249.99g of methamphetamine in his possession for the purpose of trafficking (“the First Charge”). The second was for trafficking in not less than 97.9g of methamphetamine (“the Fourth Charge”) and the third was for consumption of methamphetamine (“the Fifth Charge”). Two other charges for trafficking in methamphetamine were taken into consideration for the purpose of sentencing.

2 The minimum sentence for the First Charge as prescribed by law is 20 years’ imprisonment and 15 strokes of the cane whilst that for the Fourth Charge is 5 years’ imprisonment and five strokes of the cane. There is no mandatory minimum sentence for the Fifth Charge. The learned DPP submitted that the following sentences would be appropriate: a term of imprisonment of at least 28 years and 15 strokes of the cane for the First Charge; a term of imprisonment of at least seven years and seven strokes of the cane for the Fourth Charge; and a term of imprisonment of at least 12 months for the Fifth Charge. The learned DPP argued that the sentences for the First Charge and Fifth Charge should run consecutively, resulting in a global sentence of at least 29 years’ imprisonment and 22 strokes of the cane.

3 The learned DPP asked for the ‘benchmark sentences’ to be applied, submitting that the appropriate starting point for the First Charge would be between 26 and 29 years’ imprisonment. Three main justifications were offered to support the learned DPP’s submission for a sentence of at least 28 years’ imprisonment — the sophistication of the drug syndicate, the accused’s key role in the drug operation and his being motivated by financial reward.

4 It is apparent that the drug syndicate under which the accused operated was highly sophisticated. The syndicate’s mode of trafficking drugs was described as such — the packets of methamphetamine would be disguised as boxes and packets containing Chinese tea. The syndicate

would then ship these boxes and packets from China. They also used SingPost delivery services to send the drugs to the residential unit where the accused stayed in. The learned DPP compared this sophisticated modus operandi to the simpler ones adopted by Malaysian-based syndicates which rely on individuals to personally import the drugs into Singapore to justify the Prosecution's submission that a higher sentence ought to be meted out.

5 The operation as a whole may have the features of a sophisticated and syndicated crime. But, when considering the sentence presently, one must also not lose sight of other relevant factors. Although it is true that the overall modus operandi of the syndicate was sophisticated, the role played by the accused here was minimal. The accused was first approached by a co-accused, Jivan, and was asked to help in exchange for obtaining drugs at a cheaper price and the possibility of selling it on to others for a profit. A month later, Jivan approached the accused again, saying that he had rented a place. The accused asked if he could stay in the rented unit and Jivan agreed. It was only then that the accused agreed to help with the drug operation. The accused's role was to receive parcels of drugs sent to Jivan and to repack and deliver them on according to Jivan's instructions.

6 At the time of arrest, the accused was 20 years old and a drug addict himself. He agreed to help Jivan in part to feed his own addiction and in part to secure a roof over his head. His involvement in the syndicate was limited to helping Jivan and acting on Jivan's sole instructions. He did not interact with anyone else in the syndicate network. The accused was only involved in the repacking and delivery of drugs for four months before being arrested. There is no evidence that the accused had any role in or knowledge of the sophistication of the operation.

7 I therefore imposed a sentence of 23 years' imprisonment and 15 strokes of the cane for the First Charge, five years' imprisonment and five strokes of the cane for the Fourth Charge and 1 year' imprisonment for the Fifth Charge. I ordered the sentence of the First Charge and the Fourth Charge to run concurrently and the sentence of the Fifth Charge to run consecutively with that of the First Charge and the Fourth Charge. This will result in a global sentence of 24 years' imprisonment with 20 strokes of the cane. The terms of imprisonment shall commence with effect from the date of arrest, 3 August 2015.