

Public Prosecutor v Loo Cheng Lip
[2000] SGHC 173

Case Number : CC 54/2000
Decision Date : 25 August 2000
Tribunal/Court : High Court
Coram : Tay Yong Kwang JC
Counsel Name(s) : Low Cheong Yeow (Attorney-General's Chambers) for the prosecution; Parambir Singh Sekhon (Jacob Mansor & Pillai) (briefed) for the accused
Parties : Public Prosecutor — Loo Cheng Lip

JUDGMENT:

Grounds of Decision

THE CHARGES

I The Accused, aged 34, was the employer of an Indonesian domestic maid. He pleaded guilty before me to the following three Charges:

"That you, **LOO CHENG LIP**

1ST CHARGE

on or about the 28th day of October 1999, at Blk 702 Choa Chu Kang Street 53 #05-44, Singapore, did use criminal force on your domestic maid, one Sri Utami Tumijan, a 26 year-old female Indonesian, intending to outrage or knowing it to be likely to outrage her modesty, to wit, by ordering her to strip naked and forcefully pulling at the t-shirt that she was wearing, and further, in order to commit this offence, you voluntarily caused fear of instant hurt to the said Sri Utami Tumijan by threatening her and you have thereby committed an offence punishable under Section 354A(1) of the Penal Code, Chapter 224.

2ND CHARGE

sometime in November 1999, at or about 11.00 am, at Blk 702 Choa Chu Kang Street 53 #05-44, Singapore, did use criminal force on your domestic maid, one Sri Utami Tumijan, a 26 year-old female Indonesian, intending to outrage or knowing it to be likely to outrage her modesty, to wit, by grabbing and hugging her body from her back and you have thereby committed an offence punishable under Section 354 read with Section 73(2) of the Penal Code, Chapter 224.

5TH CHARGE

on or about 14th day of February 2000, at about 11.00 am, at Blk 702 Choa Chu Kang Street 53 #05-44, Singapore, did commit rape on one Sri Utami Tumijan, a 26 year-old female Indonesian, and you have thereby committed an offence punishable under Section 376(1) of the Penal Code, Chapter 224."

2 In addition, he admitted the offences in the following two Charges and consented that they be taken into consideration for sentencing purposes:

"3RD CHARGE on a second occasion, sometime in November 1999, at or about 11.00 am, at Blk 702

Choa Chu Kang Street 53 #05-44, Singapore, did use criminal force on your domestic maid, one Sri Utami Tumijan, a 26 year-old female Indonesian, intending to outrage or knowing it to be likely to outrage her modesty, to wit, by grabbing and hugging her body from her back and you have thereby committed an offence punishable under Section 354 read with Section 73(2) of the Penal Code, Chapter 224.

4TH CHARGE

on or about the 11th day of February 2000, at or about 10.30 am, at Blk 702 Choa Chu Kang Street 53 #05-44, Singapore, did use criminal force on your domestic maid, one Sri Utami Tumijan, a 26 year-old female Indonesian, intending to outrage or knowing it to be likely to outrage her modesty, to wit, by sucking both her breasts and inserting your finger into her vagina, and further, in order to commit this offence, you voluntarily caused wrongful restraint to the said Sri Utami Tumijan and you have thereby committed an offence punishable under Section 354A(1) of the Penal Code, Chapter 224."

3 Three other Charges under the Films Act were not proceeded with and the Accused was granted a Discharge not amounting to an acquittal in respect of those Charges.

THE STATEMENT OF FACTS

4 The Accused admitted the facts set out below:

"1 The victim is Sri Utami Tumijan, Female/26 years old, FIN No: F8449316M. She was working as a domestic maid at Blk 702 Choa Chu Kang Street 53 #05-44.

2 The accused is Loo Cheng Lip, Male/34 years old, NRIC No: S1745620B. He is the victim's employer.

3 On 15 Feb 2000, the victim lodged a police report at Choa Chu Kang Neighbourhood Police Centre alleging that the accused had raped her.

Facts Relating to the 1st Charge under Section 354A(1), Penal Code (Cap. 224)

4 On 28 October 1999, the accused fetched the victim from the maids' agency (Infobiz Resources). This was the victim's first day at work in the accused's household. No one was at home when they arrived at the accused's flat. The accused then told the victim that it was a matter of procedure for him to check the naked body of his domestic maids before they commenced work. When the victim refused to remove her clothes, the accused threatened her. He then pulled at her t-shirt and ordered her to remove the rest of her clothing but she refused. The accused then called his wife; Goh Bee Choo @ Penny (hereafter known as Penny) and complained that the victim had refused to strip. The wife however heard wrongly and thought that the maid had refused to sweep the floor. She then called the agency and spoke to the agent, Lee Lian Eng Adriana @ Cindy (hereafter known as Cindy) to complain about the maid's refusal to sweep the floor. Cindy called up the house and counselled the victim to comply with the instructions of her employers. The victim tried to explain to Cindy about what was actually going, but stopped when she saw the accused gesturing at her with his hands. After the telephone conversation, the accused continued to threaten the victim to strip and she consequently stripped, out of fear. The accused then stared at her naked body for a while before asking her to dress up.

Facts Relating to the 2nd Charge under Section 354, Penal Code (Cap. 224)

5 On a day, in the month of November 99, at about 11.00 am, the accused grabbed the victim and hugged her from the back whilst she was in the kitchen. He told her that he wanted to sleep with her. The victim struggled and broke loose from the accused. After the accused had left the house for work, the victim called and complained about the matter to Cindy. When Cindy told her to report the matter to Penny, the victim replied that it would be pointless to complain to Penny as she knew and tolerated her husband's behaviour. Right after this telephone conversation, Cindy called and told Penny about the victim's allegation. Penny remained silent. Cindy then arranged to pick up the victim the same evening. However, the accused's father called and persuaded the victim to forgive the accused and she eventually relented.

Facts Relating to the 5th Charge under Section 376(1), Penal Code (Cap. 224)

6 Investigations revealed that on 14 Feb 2000 at about 11.00 am, the victim went and tidy up the master bedroom. The door to the master bedroom was left ajar. At that time, the accused was on the computer in the adjacent room and there was no one else in the house. Thereafter, she went into the attached bathroom in the master bedroom to clean it.

7 At about 11.30 am, after she had finished cleaning the bathroom, she stepped out and saw the master bedroom door closed. The accused was lying on the bed with a pair of shorts. Accused got up and approached her. He then held her hand and used his other free hand to pull down his shorts. He then pushed her onto the bed and held both her hands over her head with his left hand. He used his free right hand to pull down the victim's shorts and panty.

8 Accused used his body weight and his right hand to pin the victim to the bed as she was struggling to get free. He then used both his legs to spread the victim's leg and he raped her. Victim cried throughout the ordeal.

9 After the rape, the victim wore her panty and shorts and ran out of the master bedroom while the accused was wearing his shorts. A while later, on the insistence of the victim, the accused called up his wife to tell her that he had 'fucked' the maid.

10 The following morning, at about 7.40 am, after sending the accused's son to his kindergarten, victim confided about the rape to another Indonesian maid; Haryati Sriyanto. The latter then brought the victim to her house and told her employer about the rape. Her employer, SSgt Norhayati interviewed the victim and subsequently brought the victim to Choa Chu Kang NPC where the report was lodged.

11 On the same day at about 2.05 pm, the accused was arrested at his flat. On 16 Feb 2000 at 0900 hrs, the accused was charged in court for rape under Section 376(1) of the Penal Code, Chapter 224."

THE SUBMISSIONS ON SENTENCE

5 Mr Low Cheong Yeow for the Prosecution informed me that the Accused had no previous conviction or antecedent. He submitted that a severe sentence was warranted here as the victim under the control and at the mercy of the Accused, her employer. She had no one to turn to in Singapore. It was also not an isolated case of sexual assault in a moment of weakness. It was a series of offences with the first incident happening on the victim's very first day of work and ending with the rape almost four months later.

6 Relying on *Sim Gek Yong v PP* [1995] 1 SLR 537 and *Fu Foo Tong v PP* [1995] 1 SLR 448, Mr Low submitted that the Accused's plea of guilt did not automatically entitle him to a discount in sentence. He also referred to the Parliamentary Debates of 20 April 1998, during which the new Section 73 of the Penal Code was enacted, to emphasize the seriousness with which

Parliament viewed cases of abuse of domestic maids.

7 Mr Parambir Singh informed me that the Accused is married with two young children aged six and seven. He used to work as a Senior Technician but had to resign from his job because of the present proceedings. His wife is gainfully employed. He helped to support his father and his mother who are 61 and 58 years old respectively. They are not working and are in poor health.

8 The Accused was remorseful and wished to apologise to the victim for the pain and suffering caused to her. He cooperated fully with the police and had in fact admitted the offences when confronted by them the day after the rape. He has also pleaded guilty at the first available opportunity.

9 Mr Parambir Singh also informed me that the Accused was released on bail on 29 March 2000 after having been in remand for some six weeks. He submitted that while any imprisonment sentence could not be backdated in the circumstances, the period spent in custody ought to be taken into account when determining the length of sentence.

THE DECISION OF THE COURT

10 In 1998, Parliament enacted the Penal Code (Amendment) Act which brought about the present section 73 of the Penal Code. This section, which came into operation on 15 May 1998, provides for enhanced penalties for offences against domestic maids such as Ms Sri Utami Tumijan here. It states:

"73. (1) Subsection (2) shall apply where an employer of a domestic maid or a member of the employer's household is convicted of –

(a) an offence of causing hurt or grievous hurt to any domestic maid employed by the employer punishable under section 323, 324 or 325;

(b) an offence of wrongfully confining any domestic maid employed by the employer punishable under section 342, 343 or 344;

(c) an offence of assaulting or using criminal force to any domestic maid employed by the employer punishable under section 354;

(d) an offence of doing any act that is intended to insult the modesty of any domestic maid employed by the employer punishable under section 509; or

(e) an offence of attempting to commit, abetting the commission of, or being a party to a criminal conspiracy to commit, an offence described in paragraphs (a) to (d).

(2) Where an employer of a domestic maid or a member of the employer's household is convicted of an offence described in subsection (1) (a), (b), (c), (d) or (e), the court may sentence the employer of the domestic maid or the member of his household, as the case may be, to one and a half times the amount of punishment to which he would otherwise have been liable for that offence."

11 In moving the Second Reading of the Penal Code (Amendment) Bill in Parliament on 20 April 1998, the Honourable Minister for Home Affairs, Mr Wong Kan Seng, said:

"Maid abuse runs counter to Singapore's aspiration to become a gracious and civil society. Abuse of foreign domestic maids can also damage our international reputation and bilateral relations.

...

Sir, this Bill is intended to send a strong signal to those employers who have a tendency to abuse their domestic maids that we take a very stern view against such abuse.

...

The reason why we have brought up this subject of maids to this House and ask Parliament to enhance the punishment is that maids are very different from our relatives and other categories of workers. These maids come from far away countries. I would say most of them are illiterate and live in rural areas. Some have practically no idea what Singapore really is like until they step on to our shores and, therefore, adjustment can become quite difficult for them. More so, when they have to be separated from their families and work in a totally strange environment under very strange conditions. I think we have to pay some special attention to how they adjust and cope with the new environment. If in the process of working here, the employers were to take advantage of them or abuse them, then, in order to become a gracious and civil society, we have got to find ways of protecting them. Hence, this particular amendment to enhance the punishment for those who abuse their maids."

12 Section 73 of the Penal Code is relevant to the 2nd Charge only, enhancing the maximum imprisonment term to three years from two years in the ordinary case of outrage of modesty. While the said Section 73 does not apply to the 1st and the 5th Charges, Section 354A (1) of the Penal Code (in respect of the 1st Charge) already provides for mandatory imprisonment of not less than two years and not more than 10 years and for mandatory caning and Section 376 (1) of the Penal Code already provides for mandatory imprisonment of up to 20 years together with a discretionary fine or caning. Nevertheless, such offences committed against domestic maids must, in the spirit of Section 73, be regarded as aggravated offences.

13 The unfortunate victim was terrorized from the very first day of her employment in the Accused's flat. He had the audacity to telephone his wife to complain that the new maid refused to strip! Even if he had deliberately mispronounced "strip" to make it sound like "sweep", it would still show what a shamelessly cunning man he was.

14 Having been let off by his maid for the earlier instances of outrage of her modesty, the unappreciative and unremorseful Accused nevertheless progressed to more intrusive molestation of her body and this culminated in the rape on Valentine's Day this year.

15 It is clear that the most serious offence in the series of Charges here is that of rape. The guidelines on sentencing in rape cases enunciated by our Court of Appeal in *Frederick Chia Kim Heng v PP* [1992] 1 SLR 361 have been cited so frequently and are so well known I need not repeat them here. It is sufficient to state that the starting point of punishment for an adult rapist is 10 years imprisonment and six strokes of the cane in a contested matter.

16 In *PP v Soip Bin Mohd Saju* (Criminal Case No. 50 of 1999 – unreported), the Accused claimed trial before me to one Charge of rape under Section 376 (1) of the Penal Code and three Charges of outrage of modesty under Section 354 of the Penal Code committed against his domestic maid. I convicted him and sentenced him to 12 years imprisonment and nine strokes of the cane for the rape charge and 15 months imprisonment for two of the outrage of modesty charges involving the touching of the victim's breasts and 24 months imprisonment for the remaining outrage of modesty charge involving the use of a vibrator on the victim's private parts. I ordered the imprisonment sentence for the rape charge and one of the 15-month imprisonment sentences to run consecutively making a total sentence of 13 years 3 months and nine strokes of the cane.

17 There are some salient differences between the present case and the facts in *Soip's case*. The accused here has pleaded guilty and indeed has indicated he would do so even at the stage of the Preliminary Inquiry. This is his strongest mitigating factor. Soip made the victim there recount her story in Court and cast aspersions on her character. Here, the offences started from the very first day of the maid's employment and covered a period of some three and a half months whereas all the offences in *Soip's case* took place on the same day. The maid here would therefore have suffered longer and would be in constant dread and fear of the next encounter. Soip was nearly 50 years old and was spared some caning as he would not be liable to be caned if

he were already 50 years of age at the material time. To aggravate the sorry situation, the Accused here announced to his wife with seeming nonchalance and arrogance his sordid act using the graphic four-letter word. Although the telephone call to his wife was made at the insistence of the victim, one could almost sense his conceited indifference to what he had done to the poor maid. It was as if he felt a surge of masculine pride at having committed the outrageous offence.

18 Considering all the circumstances, I now sentence the Accused as follows:

- (1) 1st Charge - 3 years imprisonment and 6 strokes.
- (2) 2nd Charge - 1 year imprisonment.
- (3) 5th Charge - 12 years imprisonment and 12 strokes.

The imprisonment terms for the 1st and 5th Charges are to run consecutively with effect from today while the imprisonment term for the 2nd Charge is to run concurrently with the other two. The total sentence is therefore 15 years imprisonment and 18 strokes of the cane.

Tay Yong Kwang

Judicial Commissioner

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