

Public Prosecutor v Tay Kah Tiang
[2000] SGHC 233

Case Number : CC 68/2000
Decision Date : 14 November 2000
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Christina Koh and Sia Aik Kor [Attorney-General's Chambers] for the prosecution; Christina Goh Siok Leng [Christina Goh & Co] (assigned) with David Lee Kay Tuan [Ang & Lee] (assigned) for the accused
Parties : Public Prosecutor — Tay Kah Tiang

JUDGMENT:

Grounds of Decision

1. The accused Tay Kah Tiang was a 36 year old lounge hostess. She was arrested in room 507 of the Brenda East Park Hotel at Kitchener Road on 22 March 2000 at 4.20pm by officers of the Central Narcotics Bureau.
2. In the room at the time of her arrest were her friend Lai Gek Siew ("Lai"), a 41 year old unemployed man, and heroin weighing a total of 373.88g gross. The heroin were in various packets and found in various parts of the room. Three straws (of heroin) were found on a chair; three packets wrapped in newsprint and four straws were found in the drawer of the dressing table; and a black drawstring bag with a total of 45 packets of heroin were found hidden in the false ceiling above the bathroom.
3. Items consistent with drug consumption and trafficking were also found in the room. These include scissors, pincers ("tweezers"), paper foil, empty plastic sachets, a weighing scale and lighters.
4. Lai Gek Siew was not charged in this trial with any offence connected to the drugs found in room 507. He testified on behalf of the prosecution to say that the drugs in the room belonged to the accused except those found in the false ceiling of which he had no knowledge because he did not know that they were there until the officers took them out.
5. The room was registered in Lai Gek Siew's name and the evidence showed that the couple checked into the hotel from 14 March 2000 but had changed rooms on two previous occasions before moving into room 507. Lai Gek Siew explained that they changed rooms because the first room leaked and the second was too cold. Lai said that it was the accused who wanted to check into the hotel. The prosecution's case was that the accused could not register the room in her name because she had long since lost her identity card.
6. Evidence was led to show that the accused had purchased the weighing scale just two or three days before her arrest. The receipt for the purchase was found in her wallet.
7. The prosecution tendered four written statements of the accused in evidence. The first was her cautioned statement in which she stated:

"I did not intend to sell the drugs. A male Malaysian asked me to keep the drugs for him. My friend Lai Gek Siew has nothing to do with the drugs".
8. The second was a statement recorded on 29 March 2000 in which she admitted the ownership of the drugs found in the room. She stated that the 45 packets found in the black drawstring bag were given to her by one Hak Chai to keep in "return for the \$1,000 debt" she owed him.
8. The third statement was recorded on 5 April 2000. In this statement she stated her connection as a purchaser of heroin from

Hak Chai and further exonerated Lai from any involvement in the drugs found in the room.

9. The forensic evidence showed that the nett weight of the drugs found in room 507 was 24.12g. The magazine paper used to wrap some of the drugs were seized and some fingerprints were lifted off them. Evidence from ASP Lau Yeow Khoon a fingerprint expert showed that the prints belonged to Lai Gek Siew. Lai explained that he had been reading some of the magazines which he had taken from a chair at the hotel's front desk. There was no dispute that some of the paper used to wrap the heroin came from these magazines, entitled "Singapore This Week". The evidence showed that the drugs in room 507 were in the custody and control of the accused.

10. On the above evidence, I called upon the defence. The accused elected to give evidence. Her evidence essentially repeated what had already been stated by her in the written statements. The only exception was that she denied having admitted being the owner of the heroin or having said that she suspected that the black bag contained heroin.

11. She maintained that the black bag was given to her by Hak Chai who had taken over from her previous drug peddler "Ah Tee". She took five packets of heroin from Hak Chai on 12 March 2000 at the price of \$1,000. Consequently, she agreed to keep the black bag for Hak Chai in consideration of his waiving payment of that \$1,000.

12. No explanation was offered as to why the drugs in the black bag were wrapped in magazine paper with Lai's fingerprints on them if the drugs were pre-packed and given to her by Hak Chai. There was no evidence that Hak Chai was ever in the hotel or had any opportunity to have the same magazines from which the pages were torn off for wrapping the drugs. The evidence was that Lai had taken those magazines from the front desk of the hotel to read.

13. The accused also testified that she bought the Tanita weighing scale and the empty plastic sachets on the instruction of Hak Chai. She also testified that she kept the black bag up in the false ceiling because it did not belong to her. No reason was given as to why the weighing scale and empty sachets, which she claimed also belonged to Hak Chai, were not kept together with the black bag. However, no heroin stain was found on the weighing scale.

14. The heroin kept in the black bag were hardly concealed. One lot of 20 sachets were packed in clear plastic bags and kept in a red plastic bag inside the black bag which was itself not locked or sealed in any way as to prevent inspection of its contents. The accused need only open the black bag and look into the red plastic bag to recognise the familiar substance it contained.

15. The accused admitted that the black bag was given to her by a heroin trafficker, but emphasized that he had placed three separate packets of heroin (inside the black bag) for her personal consumption. The obvious inference was that the other packets in the black bag were not meant for her consumption and must be for trafficking. This would be so because even if they were not to be sold by the accused, they had to be (on her own evidence) returned to Hak Chai. That itself would constitute trafficking or "purposes of trafficking" within the meaning of the Act.

16. One other issue arose in respect of the 109 empty plastic sachets which the accused purchased. The accused disputed the learned prosecutor's assertion that the three came from the same bundle as the 109. In my view, they were identical in shape, texture and size as those used to wrap the three packets seized from the drawer of the room. The only difference was that the 109 sachets were clean and fresh and the three sachets were crumpled with use. The evidence suggested that it was possible that the accused had been packing or re-packing heroin in her hotel room, but that is not a crucial finding I need to make. The prosecution did not pursue this point with vigour and I would therefore, be slow to conclude that the accused had been re-packing drugs in the room.

17. The real question was whether she could be believed when she said that she did not suspect the other parcels in the black bag to contain heroin. I am unable to accept her evidence on this point. She knew Hak Chai to be her replacement heroin supplier. When such a person hands over a mysterious black bag for safe-keeping it was incumbent upon her to find out what it contained and it must be assumed that she had done so. If she did not, the reasonable inference is that she already knew what it contained.

18. Finally, the circumstances of this case were such that in considering the evidence I felt obliged to consider whether the accused might have taken the blame so that her boyfriend Lai Gek Siew would be spared prosecution (which he appears to have been). I have satisfied myself that at best, Lai was an accomplice (in which event, the prosecutorial discretion lie with the Public Prosecutor). In my view, there were insufficient evidence to indicate that Lai was the real and only culprit in this case. Accordingly, his involvement was not of crucial importance although Miss Goh insinuated that Lai or his friends might have placed the drugs in the black bag without the knowledge of the accused. There was no evidence to justify this implied assertion.

19. In the circumstances, I find that the accused had not raised any reasonable doubt that was sufficient to rebut the presumption of trafficking. The accused was accordingly, convicted and sentenced to suffer death.

Choo Han Teck

Judicial Commissioner

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