

Public Prosecutor v Chia Jin Hock
[2000] SGHC 63

Case Number : CC 24/2000
Decision Date : 20 April 2000
Tribunal/Court : High Court
Coram : Chan Seng Onn JC
Counsel Name(s) : Karen Loh (Attorney-General's Chambers) for the prosecution; Accused in person
Parties : Public Prosecutor — Chia Jin Hock

JUDGMENT:

GROUNDS OF JUDGMENT

1. The accused, Chia Jin Hock, a 35 year old male Chinese, was tried before me on the following charge:

that you, Chia Jin Hock on or about the 25th day of September 1999, at or about 11.30 a.m., at the void deck of Block 3 Hougang Avenue 3, Singapore, committed a scheduled offence, to wit, criminal intimidation, and at the time of the commission of the offence, you had on your

person an arm, to wit, one Smith & Wesson .38 calibre revolver, and you have thereby committed an offence punishable under section 3(3) of the Arms Offences Act, Chapter 14.

2. The prosecution led evidence that on 25 September 1999, Cpl Brian Chong and his partner W/Cpl Florence Ngu were on patrol when they spotted the accused standing along the road near Block 1, Hougang Avenue 3. They conducted a spot check on the accused. When the accused was asked for his particulars, he took out his identity card and handed it to Cpl Brian. Cpl Brian screened the accused's particulars. After the Division Operations Room informed Cpl Brian that the accused was not wanted by the police, Cpl Brian returned the identity card to him. W/Cpl Florence then told the accused to hand over his black "Bodypac" sling bag for checking. The accused refused. Instead he asked them why they wanted to check his bag. The accused opened the sling bag and pretended to check the items inside. When the accused opened his bag, both police constables saw a plastic bag containing straws of powdery substance. Suddenly the Accused turned around and ran off.

3. Both constables chased the accused. The accused ran to the void deck of Block 3, Hougang Avenue 3. There the accused threw away the plastic bag containing several straws of yellow powdery substance. The accused ran up the stairs of Block 3 but he slipped and fell. Cpl Brian tried to restrain him but the accused used his legs to kick Cpl Brian. Cpl Brian then hit the accused's leg with his baton. W/Cpl Florence tried to assist Cpl Brian to restrain the accused. The accused used his legs to kick W/Cpl Florence as well. When the accused got up from the ground, both police constables pulled the accused's arms behind his back so that they could handcuff him. However, the accused managed to break free.

4. Suddenly, the accused grabbed the butt of W/Cpl Florence's revolver. W/Cpl Florence immediately held on to her holster with both hands to prevent the accused from taking her revolver. She pushed the accused away using her body and also kicked his legs. In the meantime, Cpl Brian was trying to pull the accused away from W/Cpl Florence. The accused tried a few times to remove W/Cpl

Florence's revolver from the holster but failed. In the course of this, W/Cpl Florence lost her balance and fell to the ground which resulted in the accused losing his grip on her revolver.

5. The accused then turned his attention to Cpl Brian and grabbed hold of the butt of Cpl Brian's revolver. Cpl Brian placed his right hand on the holster and tried to push the accused away. The accused tried to pull out Cpl Brian's revolver. Suddenly, the accused pushed Cpl Brian causing him to fall backwards. As he fell, the accused managed to pull Cpl Brian's revolver out of the holster and the lanyard attached to the revolver snapped. By this time, Cpl Florence had got up from the ground. She was standing about 2 metres behind Cpl Brian.

6. Cpl Brian looked up and saw the accused holding the revolver in both hands and with outstretched arms. The accused pointed the revolver directly at him. The accused, who was then about 6 feet away, told Cpl Brian in a very serious and threatening tone "Lu mai ko lai leow", which meant "Don't you come any nearer or any further". Cpl Brian however retracted his evidence that the accused had told him not to move. In any event, Cpl Brian understood that if he were to go forward any further, then his life and his partner's life would be in danger. Cpl Brian was very frightened.

7. The accused then pointed the revolver at W/Cpl Florence, looked at her and told her in a serious tone "Mai tong", which meant "Don't move." She was very frightened that he might shoot her. After that, the accused retreated a few steps. He continued to point the revolver in the general direction of the police constables to make sure that they were not going after him. Both police constables remained where they were and did not dare to pursue the accused anymore as he retreated. After the accused left the scene, W/Cpl Florence informed the Division Operations Room that Cpl Brian's revolver had been snatched away. The accused's identity card lying on the ground was retrieved including the plastic bag containing several straws of powdery substance. The accused's black "Bodypac" sling bag was also recovered. The straws were found to contain 10.47 gms of a granular powdery substance which was subsequently analysed to contain 0.01 gm of diamorphine.

Statements of the Accused

8. The accused did not dispute the voluntariness of the 2 statements he had given to the police. Both his statements were accordingly admitted into evidence. In the first cautioned statement, he said:

I have no intention of taking the revolver. At that moment I just grab it. On the same day I placed the revolver in a dustbin somewhere near Block 335 or Blk 355 Clementi Ave 2 after which I call the police at about 5 to 6 p.m. I call the police twice for this matter. When I was arrested I did not put up any struggle.

9. At paragraphs 8 to 11 of his long statement recorded on 12 October 1999, he related the following details:

8. When I got up of the ground, the male police officer grabbed my shirt and pinned me sideway to the wall. Both the police officers then took out their handcuffs and wanted to handcuff me. Both of them were trying to hold on to my hands wanting to handcuff me. I refused to let them handcuff me and swing both my hands wildly at them and trying to push them away. I turned around and wanted to grab hold of the female police officer's gun.

9. I placed both of my hands at the butt of the gun and tried to pull it out of the holster. The woman police officer shouted at me and also used both her hands to hold on to her gun. I tried to pull out the gun by jerking the gun forcefully upwards but it was unsuccessful. I then gave up and released my grip on her gun. I pushed her down on the ground.

10. I turned around faced the male police officer. I then went to grab the male police officer's gun. When I was grabbing the male police officer's gun, he used his handcuff to hit on my hand. He was also retreating backwards and I step forward each time he retreated. He retreated about 7 steps and I pulled forcefully his gun upwards from his holster and the gun came out of the holster. At the same time, I pushed the male police officer down to the ground. As the police officer was falling to the ground, I continued to pull the gun backwards and the string that was attached to the gun snapped.

11. I then pointed the gun at both the police officer and asked them not to force me. I also asked them let me free. I saw the woman police officer talking into the walkie-talkie. I then walked away from both of them. They did not give chase and just stood there. After a distance I put the gun at my waist inside my T-shirt. I was still wearing my T-shirt. I walked towards Blk 25 Hougang Ave 3.....

10. The accused further stated in his long statement that he was eventually persuaded by Ah Siong and his wife to surrender the gun. Ah Siong suggested that he put the gun at the rubbish bin near Clementi Police Station and he agreed. At about 6 p.m. on that day, the accused and his wife left for Clementi. They alighted near the Clementi Police Station. They walked to Block 335 Clementi Ave 2. The accused found a plastic bag and some newspapers. He unloaded the 5 rounds of ammunition from the gun. He wrapped the gun and the bullets with newspapers and placed them into a plastic bag. He tied up the plastic bag and threw it into a rubbish bin near a lift landing. The accused unloaded the gun as he was afraid the gun might misfire if he threw it into the rubbish bin. After that, he and his wife walked towards Blk 350 Clementi Ave 2. The accused then called the police from one of the public phones at the void deck and informed the police that he had left the revolver inside the rubbish bin at Blk 335 Clementi Ave 2. The revolver and 5 rounds of ammunition were later recovered by the police.

11. Insp Yong Chow Yniap of the Force Armament Branch of the Singapore Police examined the revolver and found it to be in fully serviceable condition.

12. Dr Francis Ngui, an associate consultant at Woodbridge Hospital, had examined the accused on various occasions. In his opinion, the accused suffered from heroin dependence and atypical psychosis. In his view, these psychotic symptoms were most likely related to the accused's past heroin and sedative abuse. Dr Francis Ngui was of the opinion that the accused was mentally fit to stand trial and to plead, and that he was not of unsound mind at the time of the alleged offence as he knew the nature and quality of his acts.

Close of Prosecution's Case

13. At the close of the prosecution's case, I found that a prima facie case was made out against the accused. Accordingly, I called the accused to give evidence in his own defence. The accused elected to give evidence.

Evidence of the Accused

14. The accused related how he came into possession of the drugs. He confirmed that he was stopped by the 2 police constables who wanted to check his identity card. The male police officer asked him why he was there and he told them that he was buying 4-D tickets. After screening his identity card and finding that he was not on the wanted list, the female officer told him that she wanted to check his sling bag. Since their screening had confirmed that he was not on the wanted list, he asked her why she still wanted to check his sling bag. He knew that he had drugs with him. If he was arrested again for the drugs, it would be his third time that he would be charged with drug possession. He wanted to run away. So he ran off to Block 3 where he threw the drugs away. He then ran up the stairs but he fell. The male officer approached him from behind and tried to pull him down the staircase. After pulling him down to the ground, the male officer used his baton to hit his legs and hands.

15. When he was lying on the ground, the female officer kicked him with her legs. The male officer pulled him up and pushed him to the wall in order to handcuff him. The accused said that he managed to struggle free but he found himself blocked by the female officer and was not able to run away. Suddenly he came upon an idea to frighten the female officer by pulling out her revolver.

16. Whilst he was tugging at the female officer's revolver, the male officer used his handcuffs to hit him. He gave up trying to pull out the female officer's revolver and turned to the male officer instead. When he turned towards the male officer, his hand happened to come into contact with the male officer's revolver. Instinctively, he grabbed hold of the male officer's revolver and began tugging at it. When the male officer retreated a few steps and was about to fall, the accused managed to pull out the revolver.

17. The accused said that he was very frightened at that time. He did not expect himself to go to the extent of grabbing hold of the police officer's revolver. But the revolver was already in his hand. He then placed his hand down and pointed the gun at the ground. He admitted that he had told the male officer "not to force him anymore" or "not to come any more". When he looked up, he saw the female officer but did not say anything to her. He then turned to look at the male officer and thereafter, retreated a few steps. Before he left, he was pointing the gun in a downward direction. Basically, he never pointed the gun directly at either of the police constables. He proceeded to walk to Block 1. Subsequently, he concealed the revolver underneath his T-shirt. He also related the evidence that led him to place the revolver and the ammunition in the dustbin. He said that he telephoned the police to tell them where he had placed the revolver. The accused testified that he did not surrender immediately because he wanted to consume heroin, which he did when he spent the night at Blk 315, Hougang. On the next morning, the accused realised that there were many plain clothes police officers tailing him. He decided to surrender himself to them. He was then arrested.

18. In his cross-examination, the accused admitted that his intention of snatching the revolver was to prevent Cpl Brian from chasing him. However, it did not occur to him how he was going to use the gun to stop Cpl Brian from chasing him. He said that Cpl Brian was on the ground and he knew that Cpl Brian would not be able to prevent him from running away. The accused explained that there was therefore no necessity for him to hold the revolver with both his hands and point it at Cpl Brian. He maintained that he never pointed the revolver directly at Cpl Brian although he conceded that the revolver was in Cpl Brian's line of vision when Cpl Brian turned his head around to look at him.

19. With regard to the question whether he had pointed the revolver at W/Cpl Florence, the

accused said that he was not sure if the revolver was pointed in her direction. The accused demonstrated by lifting his right arm almost parallel to the ground. The gun was then in his right hand. The accused said that he was swinging his right arm in that manner and in that angle. However, during his second demonstration, he lifted his arm upwards, not to the front of himself, but to his side and his head was facing away from the gun.

20. It would appear from his evidence that he simply had no intention to point the gun in the direction of W/Cpl Florence. The gun might have been pointed at her inadvertently as he was swinging his body and his arm whilst he was turning his body around. When he was asked by the learned DPP why he had stated in his police statement that he had pointed the gun at both police officers, the accused explained that he had told the investigating officer that he was not sure of the direction in which he had pointed his revolver. As he was uncertain, the investigating officer informed him that the 2 police officers were there. As such, it was as if he were pointing the revolver at them because he had pointed the gun in the direction where the police officers were. The accused said that he was very frightened at that time and his intention was to leave the scene as soon as possible. Thus, he was not sure where he was aiming the revolver. When asked what he meant when he told Cpl Brian not to force him any further, the accused said that there was a possibility of Cpl Brian retrieving his revolver from him and in the ensuing struggle, accidental harm could be caused to them or to any passer-by.

21. The accused denied telling W/Cpl Florence not to move. When he again denied having pointed the revolver at Cpl Brian, I then asked him whether he had lowered the gun in his hand all the way down, to point it directly at the ground. The accused disclosed that he was not pointing the gun directly at the ground but was pointing the gun somewhere towards his right and that was where Cpl Brian was lying.

22. From this evidence, I inferred that his act of pointing the gun in the direction of Cpl Brian was deliberate and intentional. The accused said that he did not know how long he was doing that. But in the course of doing so, he did tell Cpl Brian not to force him any further. The accused further admitted that as he was leaving, he turned his body and swung his arm holding the gun somewhere to his chest level. At first, the accused testified that he did swing the gun to his chest level past the location where W/Cpl Florence was, and that the gun would not be pointing above her head as he swung the gun past her position. When asked whether the gun would then be pointed at the level of her chest, the accused retracted his earlier testimony and said that he was not sure now. He said he could not be positive whether in the course of his turning around, the revolver had pointed above the female police officer's head or at her chest region. In any event, the accused admitted that both police constables did not move. He could even see that Cpl Brian was shivering and his lips were quivering. These to my mind were obvious manifestations of Cpl Brian's extreme fear at the time when the accused was pointing the gun at him. It lent credence to Cpl Brian's and W/Cpl Florence's evidence that the accused had indeed pointed the gun directly at Cpl Brian whilst he was lying on the ground.

Findings

23. I found that the charge against the accused had been proved beyond a reasonable doubt. I believed the evidence of the two police constables that the accused had pointed the gun directly at Cpl Brian in a menacing fashion and had threatened him not to come any closer. Just before he retreated, he had also pointed the gun in the direction of W/Cpl Florence and told her not to move. The seriousness with which he had uttered those words in Hokkien was not lost on these two police

constables who therefore stopped pursuing the accused lest he should use the gun against them. I disbelieved the accused's evidence that he never pointed the gun at either of the police constables or that any pointing of the gun at W/Cpl Florence was merely accidental because he happened to swing his body and his arm around past her direction as he was moving away. I accepted the learned DPP's submission that it was most unbelievable that the accused, who was desperately trying to escape, would choose not to use the revolver, which he had tried so hard to take in the first place, to deter these determined officers from further pursuing and arresting him in the course of their duty. I was fully satisfied that the accused was completely aware of the nature and quality of his actions at the material time. He was in full control of his faculties. His ability to relate with surprising clarity his version of the incident during his testimony in court confirmed the conclusions reached by Dr Francis Ngui, which I accepted.

24. As such, I found that the accused had threatened the police constables with injury to their persons, and this was intended to stop them from chasing and apprehending him, which these two police constables were entitled to do. Clearly the accused had committed criminal intimidation under s 506 of the Penal Code, which is a scheduled offence under the Arms Offences Act, Chapter 14. Since he had with him a Smith & Wesson revolver at the time of the commission of that scheduled offence, I found the accused guilty of the offence as charged. Accordingly, I convicted him.

Sentence

25. The sentence prescribed for the offence is life imprisonment and a minimum of 6 strokes of the cane. Having considered the accused's mitigation (which was in his closing submissions) and his antecedents which were mainly drug-related, and having regard to the rest of the charges which the accused admitted and consented to be taken into consideration for the purpose of sentencing, it was appropriate in my view that he be given 12 strokes of the cane. I noted that one of the charges taken into consideration was under section 394 of the Penal Code, where he had committed robbery of the revolver in the possession of Cpl Brian and in the course of committing that robbery, he had voluntarily caused hurt to Cpl Brian. This offence carries with it a punishment of caning with no less than 12 strokes. Accordingly, I sentenced him to imprisonment for life and 12 strokes of the cane.

Dated this 20th day of April, 2000.

CHAN SENG ONN

Judicial Commissioner

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